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## NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 26th March, 1959:—

Issue No.	No. and date	Issued by	Subject
40	S. O. 653, dated 19th March, 1959.	Ministry of Labour and Employment.	Constitutes a National Industrial Tribunal at Allahabad, and appoints Shri Salim M. Merchant as presiding officer.
	S. O. 654, dated 19th March, 1959.	Do.	Refers the industrial dispute between the employees in relation to the Amrita Bazar Patnka Private Ltd., Calcutta and their Workmen, to the National Tribunal constituted by S. O. 653, dated 19th March, 1959.
41	S. O. 635, dated 21st March, 1959.	Ministry of Commerce and Industry.	Appoints a body of persons for the purpose of a full and complete investigation into the circumstances of the Maheshwari Devi Jute Mills Ltd., Kanpur.
42	S. O. 683, dated 26th March, 1959.	Ministry of Information and Broadcasting.	Errata for S. O. 542.
	S. O. 690, dated 26th March, 1959.	Do.	Approval of films specified therein.
43	S. O. 691, dated 26th March, 1959.	Ministry of Labour and Employment.	Appointment of date on which certain Chapters of Employees State Insurance Act, 1948, shall come into force in certain areas of the State of Uttar Pradesh.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

(777)



**PART II—Section 3—Sub-section (ii)**

**Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).**

**ELECTION COMMISSION, INDIA**

*New Delhi, the 23rd March 1959*

**S.O. 701.**—In pursuance of the provisions of clause (b) of sub-section (6) of section 116A of the Representation of the People Act, 1951, and in continuation of its notification No. 82/336/57/11608, dated the 11th June, 1953, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (ii), dated the 21st June, 1958, the Election Commission hereby publishes the order of the High Court of Judicature at Allahabad, passed on the 24th December, 1958, on the First Appeal No. 278 of 1958, filed by Shri Mubarak Mazdoor, son of late Shri Mohammad Hussain Khan, 95, Daira Shah Ajmal, Allahabad City, against the order dated the 2nd May, 1958, of the Election Tribunal, Allahabad, in the Election Petition No. 336 of 1957.

**IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CIVIL SIDE**

**APPELLATE JURISDICTION**

*Dated Allahabad, the 24th day of December 1958*

**PRESENT**

The Hon'ble V. Bhargava.—*Judge*

**&**

The Hon'ble J. N. Takru.—*Judge*

**FIRST APPEAL NO. 278 OF 1958**

First Appeal against the judgement dated 2nd May, 1958 passed by Mr. K. K. Banerjee, Member, of Election Tribunal sitting in the Advocate's Association Building in the High Court of Judicature at Allahabad in Election Petition No. 336 of 1957.

Mr. Mubarak Mazdoor.—*Petitioner.*

*Versus*

Mr. Lal Bahadur.—*Respondent.*

**BY THE COURT (DELIVERED BY HON'BLE V. BHARGAVA J.)**

*Counsel for appellant:—*

*In person*

*Counsel for respondent:—*

Savashri R. S. Pathak, A. K. Misra, P. C. Chaturvedi, Vinodra Swarup, G. D. Dubbey, and G. S. Pathak.

**F.A. No. 278 of 1958**

Hon'ble V. Bhargava J.

Hon'ble J. N. Takru J.

*(Delivered by Hon'ble Bhargava J.)*

This appeal has been filed by Sri Mubarak Mazdoor challenging the election of Sri Lal Bahadur Shastri from the Allahabad Parliamentary Constituency No. 333 which was a single-Member constituency. The last date for filing nominations was the 29th of January, 1957 and the date of scrutiny was the 1st of February, 1957. Six candidates were nominated of whom two, namely, Sri Moti Lal Dwivedi and Sri Niranjan Lal Bhargava, withdrew their candidatures within the time prescribed by law. There remained four contesting candidates, namely, Sri Lal Bahadur Shastri, Sri Mubarak Mazdoor, Sri Radhey Shyam Pathak and Sri

Bhulai Singh. The polling took place on the 25th of February, 1957 in part of the constituency and on the 10th of March, 1957 in the remaining part of the constituency. The counting took place on the 13th of March 1957, and on the same date the result was declared. Sri Lal Bahadur Shastri, who was a candidate on behalf of the Congress Party received 1,24,896 votes, Sri Radhey Shyam Pathak, candidate for the Praja Socialist Party received 68,864 votes and Sri Bhulai Singh, candidate for the Jan Sangh Party, received 20,054 votes. No votes were received by Sri Mubarak Mazdoor as his ballot boxes were not placed at the polling stations on the ground that he had retired from the contest under section 55A of the Representation of the People Act, as amended up to date, (hereinafter referred as the Act.) After the election was over, Sri Mubarak Mazdoor presented an election petition before the Election Commission. That petition was entrusted to Sri K. K. Banerji, Election Tribunal at Allahabad, for trial. After the trial of the petition the Election Tribunal dismissed the petition and, consequently, Sri Mubarak Mazdoor, had come up in appeal to this court.

The election of the respondent was challenged by the appellant on a number of grounds on the basis of which the Tribunal framed 13 issues. To these 13 issues initially framed, another issue was added subsequently after the election petition had been amended on the request of the appellant. This course had to be adopted because certain paragraphs of the election petition were struck off by the Election Tribunal under Order 6, rule 17 of the Code of Civil Procedure against which order the appellant came up to this court. This court set aside the order striking off the paragraphs and the schedules annexed to those paragraphs and directed the Tribunal to give the appellant an opportunity to amend and amplify the petition according to law. Availing of this opportunity, the appellant made an application for amendment and amplification which was allowed by the Tribunal and, consequently the fresh issue was framed.

In dealing with this appeal we do not consider it necessary to reproduce the pleadings of the parties and all the issues at this stage. We consider that it would be more convenient to give the details of each issue and the pleadings relating to it when dealing with that issue in the order in which the issues were argued before us by the appellant. We may mention that this appeal was argued before us by the appellant in person, whereas the respondent was represented by counsel.

The appellant, in arguing the appeal, presented his case with regard to the first four issues together. These issues were—

1. Whether the petitioner retired from the election?
2. Whether any one presented the form of withdrawal by practising fraud on the petitioner?
3. Whether the alleged retirement was lawful?
4. Whether the petitioner was deprived of any electoral rights?

The pleadings on the basis of which these issues were framed are to the following effect:—

1. "That though the petitioner had not either retired or withdrawn his candidature from the aforesaid election; yet on the dates of polls no ballot boxes were kept for him with the result that the petitioner was totally deprived of seeking the verdict of the electorate as to his candidature.
2. That it appears that some person misrepresenting himself to be the petitioner presented a retirement form before the Returning Officer who, without making any enquiry as to the identity of the person presenting the form, forwarded the said retirement form to the District Election Officer. The returning officer did not even accept this retirement form as required under law.
3. That the petitioner had signed a retirement form and certain political negotiations were going on. He had kept it in his office but those negotiations failed and the petitioner did not present that form. It appears that this form was, somehow, taken away and misused and presented before the Returning Officer by some imposter.
4. That as no notification of the retirement was published in the official gazette upto 24-2-1957, nor was the retirement published in any of the local newspapers upto 24-2-1957, the petitioner wholly remained unaware of the fraud that was committed and he continued to work and canvass in his constituency. The other requirements of law on retirement of a candidate were also not fulfilled.

5. That on the first day of poll, i.e. 25th February, 1957, the petitioner came to know that his ballot boxes were not placed in the polling stations at all and therefore the petitioner made enquiry and came to know of the fraud that had been played but it was too late and the only method was to present an election petition.
- 6 That the aforesaid breach of law materially affected the result of the election of the opposite party.
- 7 That the petitioner being totally deprived of his electoral right to put ~~his name~~ up before the electorate as a candidate there was in law no election at all and the whole proceedings are void."

In addition to the points which arose out of these pleadings, the appellant also urged before us one point, viz., that even if it be held that he had presented his application for retirement in the proper form, the retirement was void in law as the notice of retirement was presented by him after the period of limitation prescribed by law for that purpose had already expired. This was the point which the appellant, in the course of his arguments, urged before us at the very outset and on which he placed great reliance. As has been mentioned by us earlier, the date of poll was 25th of February, 1957 and it is the case of the respondent that the notice of retirement of the appellant was presented to the Returning Officer on the 15th of February, 1957. For the purpose of dealing with the question of limitation, the appellant proceeded on the basis that, if proper presentation of the notice of retirement is accepted by this Court, it must also be held that the notice was presented on the 15th February, 1957. The contention of the appellant is that, under section 55A of the Act, the notice could be presented validly only on or before the 14th of February, 1957, so that the presentation of the notice on the 15th February, 1957, made the retirement void in law. The relevant provision of the Act laying down the period for giving a notice of retirement in the prescribed form is contained in sub-section (2) of section 55A of the Act and is to the following effect:—

"A contesting candidate may retire from the contest by a notice in the prescribed form which shall be delivered to the returning officer between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon of any day not later than ten days prior to the date or the first of the dates fixed for the poll under clause (d) of section 30 either by such candidate in person or by an agent authorised in this behalf in writing by such candidate"

According to this provision of law, in the present case where the first of the dates fixed for the poll was the 25th of February, 1957, the notice of retirement had to be delivered to the Returning Officer between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon of a day not later than ten days prior to the 25th of February, 1957. The contention of the appellant was that the language used in sub-section (2) of section 55A of the Act should be interpreted to mean that there should be an interval of ten clear days between the date of poll and the last day on which it is permissible to give a notice of retirement so that, in the present case, the last date of retirement permissible would be the 14th of February, 1957. Ten days covered by the 15th to 24th of February, 1957 would be the ten clear days between the 14th February, the last date permissible for retirement and the 25th February, the first of the days of poll. It appears to us that this contention cannot be accepted as the language used in sub-section (2) of section 55A of the Act does not lead to this conclusion. The expression used is "not later than ten days prior to the date or the first of the dates fixed for the poll." In the present case, the 24th of February, 1957 would be one day prior to the date of poll. The 23rd of February, 1957 would be two days prior to the date of poll and so on, so that the 15th of February would be the day ten days prior to the date of poll. During the course of argument of the appellant before us, we put this aspect before him and he admitted that the 24th of February, 1957 must be held to be prior to 25th of February, but he did not admit that 24th of February, 1957 was one day prior to 25th of February, 1957. It seems to us that if, for purposes of calculation computation is made by giving one day's time prior to the date of poll it must be held that the 24th of February was one day prior to the date of poll and the 15th of February was ten days prior to the date of poll. It is not possible to hold that the 24th of February was prior to the date of poll but not one day prior and that the 23rd of February would be prior to 25th of February but not two days prior to 25th of February. The appellant relied on the fact that the 25th of February commenced at mid-night simultaneously with the expiry of the 24th of February and urged that, from this circumstance, and inference must be drawn that the 24th of February was prior to 25th of February but it could not be said to be one day prior when the expiry of one and the commencement of the other were simultaneously. This argument ignores

the principle that law does not recognise fractions of a day; where limitation is to be computed in days. 24th is full one day in law as in 25th and is followed by the 25th. It is, therefore, a day prior to 25th, so that in computing the number of days prior to 25, the calculation must be made by taking the 24th as being one day prior, the 23rd two days prior and so on. In this connection, we may also take notice of the appellant's arguments based on interpretation of other expressions similar to this expression which has been used in section 55A (2) of the Act. The appellant referred us to the decision of the Bombay High Court in *Commissioner of Income-tax V. Ekbal and Co.* (A.I.R. 1945 Bombay 316) In that case, the expression, that came up for interpretation, was "within 30 days" and the Bombay High Court, in interpreting this expression, distinguished it from the expression "not less than 30 days". It was held by Stone, C.J. that

"In my judgment expression 'within 30 days' and 'not less than 30 days' are two quite different things. 'Within 30 days' is within two points of time, one at which the period begins and the other at which it expires. On the other hand, 'not less than 30 days' is outside these two points of time. There must be an interval of not less than 30 days and that means 30 days clear: see (1885) 29 Ch. D. 204. The period must continue beyond the expiration of the stated time. Whereas 'within' the stated period must mean what it says something less than the moment of expiration."

Kaina, J. expressed his opinion as follows:—

"To put it in other words 30 clear days must elapse before his obligation to send the return becomes effective. The notice given in the case is to send the return within 30 days' that being treated as a period of time given to the assessee to send his return. It seems to me clear that when a party is called upon to do an act 'within' a stated number of days he necessarily cannot get that number of days as 'clear' days. In other words according to the terms of the notice, the assessee does not get 30 clear days' period, before his obligation to send the return arises. I, therefore, agree that the notice is not in accordance with S. 22(2)".

It seems to us that the views expressed in that case cannot apply to the case before us. The expression, which we have to interpret, is "a day not later than ten days prior to". In the instant case, the 15th of February is ten days prior to the 25th of February which was the date of poll. What the law requires is that the notice of retirement should have been given not later than the 15th February. The notice of retirement actually having been presented on the 15th of February, it was not presented later than the 15th of February so that it was presented in accordance with the requirement of law.

In this connection, the appellant drew our attention to the book 'Words and Phrases Judicially Defined' by Roland Burrows 1944 Edition, Vol. III. at page 508, where the expression "not later than all March" has been discussed in the following words:—

"A charterparty provided that a vessel was to leave a port 'not later than all March' 'What is the meaning of the word "to leave Amsterdam not later than all March". It seems to me that the true meaning is that the vessel shall leave that place, that is the harbour, on the 31st of March at the latest, and then sail and proceed with all convenient speed on the voyage to Liverpool.' *Van Gaggen v. Balines* (1854), 9 Exch. 523, per Parke, B., at p. 530"

It appears to us that this explanation of the expression "not later than all March" only bears out the view that we have taken above. The expression was interpreted so as to permit the vessel to leave the port on the 31st of March and what was excluded from the permissible time were the subsequent dates, first of April, onwards. In the case before us, the expression is "a day not later than 10 days prior to the date of poll". On the interpretation given above, the presentation of a notice of retirement on a day which is 10 days prior to the date of poll would be a presentation within time and, consequently, valid. We have already explained above how the 15th of February, 1957 was the day 10 days prior to the date of poll and, consequently, a notice of retirement could validly be presented on the 15th of February, 1957. The contention of the appellant that the notice of retirement was void because it was presented beyond the period of limitation is, therefore, to be rejected.

The next point, that was urged by the appellant in this connection, was that, under section 55A(2) of the Act, such a notice had to be presented by a candidate

in person or by an agent authorised in this behalf in writing by the candidate and, in the present case, the appellant did not present the notice of retirement in question at all. The suggestion was that it was presented by some unauthorised person who happened to get hold of this form after the appellant had signed it and, since that person was not authorised by the appellant in writing to present it on his behalf, the presentation was invalid and there was, consequently, no valid retirement by the appellant. In this connection, the appellant has given his version as to what actually happened. According to him, on the 4th of February, 1957, he was approached by one Sri Ramji Dwivedi and some others for a compromise, Sri Ramji Dwivedi was a supporter and worker of the Praja Socialist Party on whose behalf the election was being contested by Sri Radhey Shyam Pathak. A compromise was suggested as it was felt that two leftist candidates should not contest and divide the votes of the electors who were prepared to support the leftist parties. On the same day, the appellant was given a blank retirement form and the arrangement was that both the appellant and Sri Radhey Shyam Pathak should sign the retirement forms which should be handed over to three panches agreed upon between the parties. The retirement form signed by the candidate, whose continued candidature was decided upon by the panches, was to be torn off whereas the other was to be presented to the Returning Officer. The next day, that is, on the 5th of February, 1957, Sri Ramji Dwivedi, who was also a member of the Allahabad City Parliamentary Board of the Praja Socialist Party, met the appellant at Chaurasi Khambha near the Collector's office in Allahabad. The appellant brought the retirement form duly filled in except that, in the portion of the form where the candidate could authorise any person to present the form on his behalf, the appellant merely made his signature and left the remaining entries blank. The form, which was used, was Form 12 contained in Schedule I to the Representation of the People Act (Conduct of Elections and Election Petitions) Rules, 1956 having been prescribed under Rule 16 of those rules. The form consists of two parts. The first part contains a notice of retirement signed by a candidate and the second part contains authorisation of an agent by a candidate for delivering the notice to the Returning Officer on his behalf. In the form, which the appellant signed, all the necessary entries in the first part were completed and it was also signed by him. In the second part, the appellant merely put his signature but did not make the other entries so that the name of an agent authorised by him as well as the signature and address of that agent were missing. The appellant's further case was that, when he signed this retirement form he deliberately dated it as the 15th of February, 1957, with the knowledge that it would prove time-barred, so that it could not be missed. When questioned by us in Court, the appellant had to admit that, if his contention was correct, the effect of dating it as 15th February, 1957, and its presentation on that date making the presentation void as being time-barred was that this form would not be used even if the agreement which had been arrived at between the appellant and Sri Ramji Dwivedi, had fully materialised. The appellant says that, when he met Sri Ramji Dwivedi on the 5th of February, 1957, the latter gave the names of three panches which were not acceptable to the appellant, the three panches named being Sri S. N. Verma, Sri K. K. Bhattacharya and Sri Sehat Bahadur. The appellant gave three different names which included Sri Gopi Nath Kunzru. These names were not acceptable to Sri Ramji Dwivedi. For this reason, the negotiations fell through there and then, so that the appellant took back the retirement form with him. He then kept it at his house amongst his papers and then left for Calcutta on the 8th of February, 1957. On the 15th of February, 1957, also he was at Calcutta so that he could not have himself presented the form to the Returning Officer as he is alleged to have done. The suggestion was that some body managed to get hold of this form from his papers and wrongly presented it to the Returning Officer misrepresenting to him that he was the candidate, Sri Mubarak Mazdoor, whom he thus impersonated. The appellant had pleaded in paragraph 11 of his petition that it was on the first day of poll, that is, the 25th of February, 1957, that the appellant came to know that his ballot boxes were not placed at the polling stations at all and, therefore, the appellant made inquiries and came to know of the fraud that had been played. In his evidence in court, however, the appellant changed his case and stated that it was on the 26th of February, 1957, at Calcutta that he read in an Allahabad newspaper that he had retired, which gave him a surprise. In these circumstances, the question, that falls for decision, is whether this retirement form was actually presented by the appellant himself or by some other person who had no authority to present it on his behalf.

It was contended by the appellant that, since the respondent was relying on the retirement of the appellant, the onus of proving the retirement and its validity lay on the respondent, whereas on behalf of the respondent it was contended that the onus of proof lay on the appellant as he was challenging his retirement, which retirement had been accepted by the Returning Officer

and was acted upon by him in accordance with law. It appears to us that, in a case like the present, where both the parties have given evidence on this question, the onus of proof loses all weight. We have to examine the evidence adduced by both the parties and arrive at a finding as to whether the respondent has proved that the retirement form was validly presented, or whether the appellant has succeeded in proving that it was not presented by him but by some unauthorised person.

In this connection, the evidence which has been given on behalf of the appellant to prove his negotiations with Sri Ramji Dwivedi and the circumstances in which, according to him, this retirement form was signed by him, has to be examined. The appellant has given his own evidence and has, in addition, examined Sri Ramji Dwivedi as well as two other witnesses, Sri Krishna Prakash Tewari and Sri Prem Nath Jaiswal. It is to be noticed that none of these witnesses is independent. The appellant was the election petitioner himself and was challenging the election of the respondent so that it was in his interest to show that there was no valid retirement. Sri Ramji Dwivedi, Sri Krishna Prakash Tewari and Sri Prem Nath Jaiswal were members or supporters of the Praja Socialist Party. Sri Ramji Dwivedi and Sri Prem Nath Jaiswal were members of the Allahabad City Parliamentary Board of the Praja Socialist Party. Sri Krishna Prakash Tewari was sufficiently interested on behalf of the Praja Socialist Party to accompany Sri Ramji Dwivedi when negotiations were going on and seems to have been a supporter of the Praja Socialist Party. His connection with that party is further established by his admission that his father was one of the election agents of Sri Salik Ram Jaiswal who was a candidate on behalf of the Praja Socialist Party from one of the constituencies of district Allahabad for the Uttar Pradesh State Legislative Assembly. It has also to be kept in view that, in this election petition, which was presented by the appellant, the interests of the appellant and the Praja Socialist Party are coincident. The appellant as well as Sri Radhey Shyam Pathak, a candidate for the Praja Socialist Party, were rivals of the respondent in the election, and if the election of the respondent is set aside, the result would ensure to the benefit of both, the appellant as well as the candidate for the Praja Socialist Party. Consequently, the witnesses who are supporters of the Praja Socialist Party, cannot also be treated as independent persons who have no interest in the result of these proceedings. They are highly interested and it would not be at all unnatural that they should make a common cause with the appellant in his fight to have the election of the respondent set aside. That there may have been some negotiations which ultimately did not fructify is a possibility which, on the evidence given on behalf of the respondent, cannot be excluded as it is not possible to expect that the respondent would be able to give direct evidence to show that no such negotiations in fact did take place. The circumstances, in which the retirement form was signed according to these witnesses, however, appear to make their version improbable. We have noticed earlier that the appellant's case is that during the negotiations the agreement arrived at was that a Board of three panches was to decide as to which of the two candidates was to continue to contest the election and which of them was to retire. The retirement forms signed by both the candidates were to be handed over to the panches. The appellant had been asked to bring his retirement form duly signed when he was to come for negotiations on the 5th of February, 1957. It would be expected that the appellant would not have signed the retirement form and brought it with him unless he had also ensured that a similar form was also signed by the other candidate, Sri Radhey Shyam Pathak, and was also available for being handed over to the panches. In fact, the more likely conduct on the part of the appellant would have been not to sign the retirement form till the names of panches had been agreed upon and, in any case, to ensure that the signing of the retirement form by him and by Sri Radhey Shyam Pathak was simultaneous so that no advantage could be taken of the form signed by him. Then, there is the fact that, according to the appellant, he deliberately post dated this retirement form so as to make it a useless paper. Bringing with him such a useless retirement form could not serve the purpose for which the form was meant. According to the appellant's admission, he had told Sri Ramji Dwivedi that he had post dated the form and had signed it so that it was beyond the period of limitation. If so, Sri Ramji Dwivedi would never have agreed that this form should be accepted in pursuance of the negotiations and handed over to the panches. In fact, if Sri Ramji Dwivedi had really come to know that the form had been post dated so that its presentation within the period of limitation was no longer possible, the negotiations would have broken down because of this very circumstance, as it would have made it manifest to Sri Ramji Dwivedi that the appellant was not intending to keep to his bargain and had given an indication that,

even if the panchs decided that he should retire from the contest, they could not compel him to do so by presenting this retirement form to the Returning Officer. It cannot, therefore, be accepted that the negotiations fell through in the manner alleged by the appellant and that the retirement form had been signed by him as a result of those negotiations but later retained by him in his possession.

To support his plea that he had not presented this retirement form to the Returning Officer, the appellant also produced evidence that on the 15th of February, 1957, he was at Calcutta. He gave his own statement to that effect and examined three witnesses in support of this assertion. These witnesses are Purshottam Jaiswal, Sardar Ahsan and Nirpendra Nath Bannerji. The three witnesses examined by the appellant in support of this plea of his absence from Allahabad on the 15th February, 1957, are also none of them independent. Purshottam Jaiswal is the son-in-law of Sri Salik Ram Jaiswal who was a candidate for the Praja Socialist Party and appears to have come as a witness under the influence of his father-in-law. The second witness, Sardar Ahsan, is the real brother of the appellant and is obviously a highly interested witness. According to this witness, he was himself trying to persuade the appellant to retire from the contest. He has, however, come forward with the plea that he made this effort because of some talk which he had with the respondent. After that talk with the respondent, he first sent two telegrams to the appellant on the 11th and 12th of February, 1957. In the first telegram he merely urged upon the appellant to withdraw immediately and retire for that purpose. In the second telegram, sent on the 12th of February, 1957, he asked the appellant to send the withdrawal authority at once. The working of the second telegram is as follows:—

"Mazdoor send express withdrawal authority letters proposer.

Wilayat Agas Name Wire confirmation.

Sardarahsan."

Sardar Ahsan, in his evidence, proceeds further to state that, when he received no replies to these telegrams, he himself proceeded to Calcutta and met the appellant there on the 13th, 14th and 15th of February, 1957, but the appellant did not agree to retire as he was confident of his success in the election. Thereupon, the witness left Calcutta on the night of 15th February, 1957. It appears to us to be very difficult to believe the version given by this witness. It appears to be much more likely that, for some reason or the other, Sardar Ahsan desired that the appellant should withdraw and it was for this reason that he sent these two telegrams to the appellant, who was in Calcutta, on the 11th and 12th of February, 1957. Subsequently the appellant must have come back to Allahabad and he then presented this retirement form before the Returning Officer on the 15th of February, 1957. This witness, Sardar Ahsan, goes on to say that he sent these telegrams to the appellant because the respondent wanted that the appellant should withdraw from the contest and had promised that the appellant would be accommodated in the Rajya Sabha later on. He goes on to say that he had been sent for by the respondent through one Jagdish Kudesia who took him to the respondent where the respondent told him that it was a four cornered election and no body could be sure of his success and, in case the appellant continued in the fight, there would be further division of votes. The respondent further said that the object of the appellant was to go to the Parliament for which he had very slender chances, but, if the appellant retired, his chances would be brighter as he would be accommodated when there was an election to the Rajya Sabha afterwards. The version, given by Sardar Ahsan, the brother of the appellant, is refuted by the evidence of the respondent himself as well as by Jagdish Kudesia. The respondent denies that he ever mentioned at all that the appellant could be made a member of the Rajya Sabha or that he ever made any suggestion to Sardar Ahsan that the appellant should withdraw from the contest. According to him, it was Sardar Ahsan himself who suggested that the appellant be given a seat in the Rajya Sabha. The respondent also denies that he ever sent for Sardar Ahsan through Jagdish Kudesia or any one else. According to him, he met the appellant at about 11-30 P.M. on the 3rd of February, 1957, when the appellant himself suggested his withdrawal if he could be given a seat in the Rajya Sabha, whereupon the respondent said that it was absurd and refused to entertain the suggestion. Jagdish Kudesia also stated that he had met Sardar Ahsan on the 3rd of February, 1957, and went with him to the house of the appellant. The appellant there told him that he had filed the nomination paper not for the purpose of contesting the election against the respondent but with the object of showing to the people that he was also a leader. The appellant wanted to be taken to the respondent but, though the witness walked with the appellant



up to the Kotwali, he parted there without holding out any hope that the appellant could have a meeting in this connection. There is of course, no doubt that the respondent and this witness, Jagdish Kudesia, are also interested persons. The respondent is obviously interested in the result of these proceedings and Jagdish Kudesia's interest arises from the circumstance that he was a Congress man and, consequently desired the success of the respondent. He in fact did more work for the respondent in the elections; but it has to be kept in view that we have to judge, on the one hand, the evidence of the witnesses produced by the appellant who are also interested persons like Saidur Ahsan and Purshottam Jaiswal and, on the other hand, the evidence of interested witnesses like the respondent himself and Jagdish Kudesia. The circumstantial evidence available in such cases should, in our opinion, determine which set of witnesses should be believed and a further test, that can be applied, would rest on corroboration by independent witnesses. As we shall indicate later, circumstances and the independent evidence available support the version of the respondent and Jagdish Kudesia rather than the version given by the appellant and his witnesses. One piece of circumstantial evidence, which may be taken notice of at this stage, is provided by the subsequent conduct of the appellant in the month of April, 1957. There are on the record copies of two telegrams Exts. K and K-1, which were sent by the appellant to the respondent and to Sri Jawahar Lal Nehru, Prime Minister. In the telegram, Ext. K, sent to the respondent, the appellant stated that he wanted a seat in the Rajya Sabha in the respondent's vacancy and requested for the respondent's support. In the telegram Ext. K-1, sent to the Prime Minister, the appellant asked for an interview before the 22nd of April, 1957, regarding his candidature for the Rajya Sabha from Uttar Pradesh and regarding the election petition against the respondent. These two telegrams, though sent after the election was over, support the version given by the respondent that it was the appellant who himself was keen to have a seat in the Rajya Sabha and that there could be no question of any offer being made by the respondent that he would obtain a seat for the appellant in the Rajya Sabha provided the appellant retired from the contest for this seat in the House of the People. The language of the telegram, Ext. K, addressed to the respondent, clearly indicates that it was the appellant who wanted to seek the assistance of the respondent, presumably in the hope that the respondent might be actuated to agree to this request if the appellant withdrew his election petition against the respondent. This fact seems to be more clearly suggested in the telegram, Ext. K-1, sent to the Prime Minister by the appellant where the appellant sought an interview not only with regard to his candidature for the Rajya Sabha but mentioned that the interview was to be with regard to the election petition against the respondent also. The only reasonable inference, that can be drawn from the language in this telegram, is that, at the interview which the appellant was seeking, he was intending to offer to withdraw his election petition against the respondent provided the Prime Minister assisted him in his candidature for the Rajya Sabha. The reply to this telegram Ext. K-1, sent on behalf of the Prime Minister, is Ext. 34. That reply was sent by the Private Secretary to the Prime Minister and said that the Prime Minister had nothing to do with selecting candidates for the Rajya Sabha and, consequently, there was no point in interviewing the Prime Minister. The reply further said that the Prime Minister had nothing to do with the election petition against the respondent and that, in that connection, the appellant should meet the respondent who had come to Allahabad. This reply also indicates at that stage or at any earlier stage, there had been no offer to the appellant on behalf of the respondent or any other top leaders of the Congress like the Prime Minister that he would be given a seat in the Rajya Sabha if he did not contest the election against the respondent. The appellant, when arguing the case in respect of these telegrams, urged that the inference sought to be drawn on behalf of the respondent that he was blackmailing the respondent by asking for support for a seat in the Rajya Sabha on the threat that he would pursue his election petition against the respondent should be rejected by us. No such inference was sought to be drawn on behalf of the respondent before us in the course of this appeal. The stand taken on behalf of the respondent was that these telegrams merely indicated that the respondent at no stage, started any negotiations with the appellant on the basis of a promise to the appellant to support his candidature for the Rajya Sabha and that, on the other hand, the appellant was expecting that his candidature for the Rajya Sabha would be supported if he offered not to pursue his election petition against the respondent. It was not suggested that the mention of the election petition was as a threat. The argument was that the appellant was offering on his part the consideration of withdrawing the election petition against the respondent provided he received the support for his candidature for the Rajya Sabha from

the respondent or the Prime Minister. These telegrams thus support the version given by the respondent of the talk which he had with the appellant on the 3rd of February, 1957, and is a circumstance that inclines us to hold that the evidence of the respondent and Jagdish Kudesia is more reliable than the evidence of the appellant or his interested witnesses like Sardar Ahsan and Purshottam Jaiswal.

The third witness to prove the absence of the appellant from Allahabad on the 15th of February, 1957, is Nripendra Nath Bannercji. According to him, the appellant and his brother came to see him in the Kanchala Pala Hospital in Calcutta on the 15th of February, 1957, where the witness was an indoor patient as he was suffering from tuberculosis. The witness stated that the 15th of February, 1957, was his birthday and a number of his friends came to see him at the hospital amongst whom were the appellant and his brother. The occasion, according to him, was the celebration of his birthday. The admission made by this witness in the cross-examination show that he has been a friend of the brother of the appellant for about three or four years. It is, however, significant that he admitted that, though he had invited the brother of the appellant, he sent no invitation to the appellant himself. According to him, the appellant was the only person who had come to the birthday party without receiving any invitation. He had, however, tried to get out of this circumstance by alleging that he had written to the appellant's brother that he should bring the appellant with him when he came to attend the party. On further cross-examination, the improbability of this version appeared still further. The witness stated that he had been told by the appellant's brother in the month of January that the appellant was expected to be in Calcutta and this was confirmed in writing by a letter subsequently. It is not possible to believe that, in the month of January while the appellant was proposing to stand as a candidate for the election to the House of the People from Allahabad, he could have already chalked out a programme to be in Calcutta on or about the 15th of February, 1957. The witness further says that this was the solitary occasion when the appellant attended his birthday celebrations. These are circumstances that cast doubt on his evidence which appears to us to be unreliable as being the testimony of a witness who appears to have stated in favour of the appellant because of his friendship with him or his brother. This evidence of *alibi* sought to be tendered by the appellant to show that he was not in Allahabad on the 15th of February, 1957 is thus of a very unsatisfactory and unreliable nature.

There is the further circumstance that it appears to be highly unlikely that, if the appellant had not intended to retire and had in fact not retired he would have stayed at Calcutta from the 8th of February, 1957, onwards up to the first day of poll, viz., the 25th of February, 1957. The appellant, in order to meet this circumstance, came forward with the allegation that he was so confident of his success in the election that he considered it to be necessary for him to be in his constituency at the time of the election or even during the 15 or 20 days prior to the election. It appears to us to be a very unnatural conduct on the part of a candidate contesting an election to go away from his constituency and dissociate from the propaganda in favour of his election as the appellant alleges he did. We cannot accept his assertion that he was quite confident of his success, particularly when he was contesting an election against the candidates of well organised parties, like the Congress party, the Praja Socialist Party and the Jan Sangh Party. The claim put forward by him is clearly an excuse put forward as an explanation for the circumstance which militates against his case that he had not retired from the contest. The evidence given on behalf of the appellant is, therefore, highly unsatisfactory and the appellant has, in no way, succeeded in proving his assertion that he himself did not and could not present this retirement form before the Returning Officer.

The evidence given on behalf of the respondent, in addition to the witnesses mentioned above, whom we have considered as not independent, includes one witness who, it appears, is entirely independent. That witness is Sri J. M. Raina, Returning Officer, who was also the District Magistrate and Collector of Allahabad. He has stated in clear words that this retirement form was presented to him by the appellant personally and that it was given to him at about 1-00 p.m. on the 15th of February, 1957. It was contended by the appellant that no reliance should be placed on the evidence of Sri J. M. Raina, as he could not be expected to know the appellant and he took no precaution to have the appellant properly identified when accepting the retirement form. Sri J. M. Raina had stated that he had seen the appellant on the date of nomination as well as on the date of scrutiny and, consequently he knew and recognised him at the time when the retirement form was presented. The appellant was

one of the candidates who intended to contest the election by filing his nomination paper. The attention of the Returning Officer, Sri J. M. Raina, must have been drawn towards him on both the occasions, when the nomination papers were filed and when they were scrutinised. It is, therefore, not all surprising that a few days later, when the retirement form was presented by the appellant, Sri J. M. Raina, was able to recognise him so that he considered it unnecessary to obtain any identification. The appellant also relied on the fact that, at the time when the retirement form was filed, no attempt was made by Sri Raina to ensure that the signature of the appellant on the retirement form was genuine. It was urged by the appellant that, when the retirement form, which was being presented, was already signed, the Returning Officer should have had the signatures attested. Sri Raina has stated that he did not consider it necessary to get the signature attested, the reason being that he already knew the signatures of the appellant because he had seen them on the date when the nomination papers were filed. It seems to us that, when the signatures on the retirement form appeared to the Returning Officer to be those of the appellant and he also recognised the appellant who was himself presenting the retirement form, there was no reason at all when the Returning Officer should have asked for attestation of the appellant's signatures on that form. The evidence of Sri Raina was also challenged by the appellant on the ground that Sri Raina was interested in favour of the respondent and other Congress candidates, as indicated by his earlier conduct. Reliance was placed by the appellant on the fact that in June, 1956, Sri Raina had sent a copy of Form 1-B for the use of the respondent, so that the respondent could apply under the provisions of Rule 7 of the Representation of the People (Preparation of Electoral Rolls) Rules, 1956, for his name entered in that part of the electoral roll the entry in which would entitle him to cast his vote by postal ballot under section 60(a)(ii) of the Act. It appears to us that the action, which was taken by Sri Raina at that time, gives no indication at all of his having any interest in the election of the respondent. The copy of the D.O. letter, which was sent by Sri Raina shows that it was a draft letter which was submitted to him by the then District Election Officer who was in charge of preparation of electoral rolls. The District Election Officer put up this draft letter before Sri Raina very likely because he considered it his duty to provide necessary facilities for entering of their names in the correct part of the electoral rolls to persons who were holding offices declared by the President to be office to which the provisions of sub-section (4) of section 20 of the Representation of the People Act, 1950 (Act 43 of 1950) applied. Sri Raina was the officer under whose supervision the District Election Officer was functioning and, consequently, it was in the discharge of his routine duties that he sent a D.O. letter with which the form was sent. Subsequently when the form was received back with the signature of the respondent he passed it on to the election office with a mere endorsement to that effect. Similar action was taken by Sri Raina and the District Election Officer for another person, viz., Dr. K. N. Katju, who was also similarly entitled to have his name entered in that part of the electoral roll. The fact that this routine action taken by Sri Raina happened to provide some convenience to the respondent or to Dr. K. N. Katju, in no way, indicates that Sri Raina was taking any personal interest in the election of the respondent or Dr. Katju. It has also to be kept in view that, when Sri Raina was in the witness box, no question were put to him with regard to his conduct in sending this form to the respondent so that he at least had no opportunity to explain why he had taken that action and it would, therefore, be unfair to draw any inference adverse to him on the basis of this conduct which *prima facie* appears to have been the result of the discharge of his routine duties. It does not appear from the record that in other respects there were any complaints that Sri Raina, when working as the Returning Officer, was showing favour to any particular candidate or that any attempt was ever made to complain to the Election Commission or the Chief Electoral Officer of Uttar Pradesh against the conduct of Sri Raina. In all these circumstances, we consider that Sri Raina is a totally independent and reliable witness and his evidence clearly establishes that this retirement form was actually presented before him by the appellant.

Three other circumstances were relied upon by the appellant in support of his case that there was, in fact, no retirement by him at all on the 15th of February, 1957. The first circumstance relied upon by him is that the evidence discloses that there were negotiations between the appellant and the members of the Praja Socialist Party or the respondent only prior to the 4th of February, 1957, and, if the appellant had decided, as a result of those negotiations, not to contest the election, he would have withdrawn his candidature on the 4th of February, 1957, instead of waiting and retiring from the contest later on the 15th of February, 1957. In the course of arguments, it was urged by him that

a withdrawal on or before the 4th of February, 1957 would have been an honourable conduct on his part, whereas his subsequent retirement under section 55A of the Act would be a dishonourable act, we fail to see that any distinction can be drawn between withdrawal and retirement in the matter of judging whether the conduct of the person withdrawing or retiring was honourable or dishonourable. It does not appear that any question of honour at all arises when a candidate wants to withdraw or retire. No doubt there is no evidence on behalf of the respondent to show what transpired after the expiry of the last date of withdrawal which actuated the appellant to retire from the contest consequently on the 15th of February, 1957. This is a matter which is in the special knowledge of the appellant and it would not be fair to expect the respondent to give evidence of the motives which led the appellant to adopt this course. A few suggestions can, however, be made. It is possible that, even though the negotiations of the appellant with Praja Socialist Party had fallen through, the appellant may have chosen to retire subsequently from the contest in order to facilitate the success of the Praja Socialist Party candidate as he may have been more opposed to the Congress Party as such rather than to the Praja Socialist Party. There is the possibility that the appellant might have envisaged that he would receive very few votes and it might be in his interest to retire rather than appear as a defeated candidate who had practically no support of the electorate at all. Of course, so far as the appellant is concerned, he claims that he was confident of his success but, as we have said earlier, we are not prepared to attach any weight to this assertion of this.

The next circumstance relied upon by the appellant is that, according to him, his propaganda for election continued even after the 15th of February, 1957, and up to the first date of poll, viz., the 25th of February, 1957, and this could not have happened, had he in fact retired from the contest. In support of this plea, the appellant examined a large number of witnesses. They are P.W. 6 Shambhu Nath Srivastava P.W. 8 Mohammad Idris, P.W. 11 Bashir Ahmad, P.W. 12 Ramji Dwivedi, P.W. 13 Krishna Prakash Tewari, P.W. 15 Vijai Pratap Singh Rathore, P.W. 16 Prem Nath Jaiswal, P.W. 17 Ishtiaq Hussain Mirza, P.W. 19 Bishwanath Gupta, P.W. 20 Abdul Rashid and P.W. 21 Kamla Kant. These were the witnesses whose evidence was brought to our notice by the appellant on this point. They have all stated that the propaganda of the appellant continued right upto the 25th of February, 1957. Most of these witnesses are interested witnesses. One of them, Shambhu Nath Srivastava, was specially relied upon as he claimed to be a member of the Congress Party and to be a worker of the respondent in this election and of Sri Mangla Prasad, another Congress party candidate for a seat in the Uttar Pradesh Legislative Assembly. It is, however, significant that, apart from his oral claim, Shambhu Nath Srivastava was not able to produce any documentary evidence to show that he was a member of the Congress Party or a worker of the respondent or Sri Mangla Prasad. There is nothing to show that he acted as a polling agent for either of these two Congress candidates. The evidence of these witnesses has not impressed us at all, nor did it impress the learned judge of the Election Tribunal who had the benefit of watching their demeanour while they were in the witness box. As against this evidence of the appellant, the respondent also examined a number of witnesses who stated that there was no propaganda at all on behalf of the appellant after the 15th of February, 1957. These witnesses are R.W. 5 Kailash Narain Gupta, R.W. 9 Syed Ahmad Siddiqui, R.W. 11 Hafiz Mohammad Hafiz, R.W. Agha Mohammad Yasin, R.W. 14 Nand Lal Jaiswal, R.W. 22 Abdul Rauf and R.W. 23 Jamuna Prasad Bhatta. It seems to us that these witnesses who also give general evidence that there was no propaganda on behalf of the appellant, are no better than the witnesses examined by the appellant who have stated that the propaganda did continue. There is in fact, nothing to choose between these two sets of witnesses who all appear to have come into the witness box in support of the candidates in whom they were interested. Such evidence given on behalf of the appellant or the respondent is of little use. The same remarks apply to the evidence of three witnesses, R.W. 4 Mirza Musharaf Ali, R.W. 7 Mirza Shaikat Hussain and R.W. 16 Syed Naurul Hassan who have come to state that the appellant subsequently, after his retirement, made admissions that he had retired from the contest or made a public declaration to that effect. In a case like the present, where there is direct evidence about the retirement having been brought about by the presentation of a form of retirement in accordance with law, such evidence seems to us of little help. If at all, the cumulative effect of this evidence, in our opinion, is to support the fact of retirement rather than to disprove the retirement.

The third circumstances relied upon by the appellant was that, according to him, his name continued to be shown in the list of candidates which was sent to the various polling stations for being put on the notice boards there as required by the rules and this would not have happened had he actually retired from the

contest. It is significant that, in support of this plea, the appellant has not been able to produce even a single copy of the list of contesting candidates which may have been put on the notice board of any of the polling stations. The appellant has relied on the copy of the list of contesting candidates which was kept in the office of the Returning Officer. This copy is Ext. 15. An examination of this list of contesting candidates, Ext. 15, makes it clear that this particular list, Ext. 15, is the list of contesting candidates prepared under section 38 of the Act in accordance with rule 11 of the Representation of the People (Conduct of elections and election petitions) Rules, 1956. This is also stated by P.W. 10 Sri D. S. Faujdar who was examined by the appellant himself in this connection. His statement is that Ext. 15 is the original printed copy of Form 7A. In Form 7A has to be drawn up a list of contesting candidates under section 38 of the Act. The list bears the signature of the Returning Officer, Sri J. M. Raina, and includes the name of the appellant, Sri D. S. Faujdar, when questioned by the appellant, stated that copies of this list Ext. 15 were sent to the polling centres including the polling stations. Reliance was placed on this statement by the appellant for the purpose of arguing that, even in the lists sent to the various polling stations, the name of the appellant continued to exist. Sri D. S. Faujdar, however, added later in his statement that the name of Sri Mazdoor appellant was struck off from the printed list when copies of it were sent to the various polling stations. The appellant argued that this statement of Sri D. S. Faujdar should not be believed as his name is not struck off in the original list Ext. 15. This argument clearly has no force. The original list, Ext. 15, drawn up under Rule 11 containing the names of contesting candidates under section 38 of the act could not have been mutilated by striking off the name of the appellant when he subsequently retired on the 15th of February, 1957, and when he had not withdrawn from the contest earlier under section 37 of the Act. Even the rules do not contemplate the striking off of the name of a candidate, who retires from the contest, from the list of contesting candidates prepared under Rule 11. The relevant rule 20 only requires that a copy of the list of contesting candidates in Form 7A has to be displayed prominently outside and inside each polling station with such corrections, if any, as may be necessary by reason of any candidate or candidates having retired from the contest under section 55A of the Act. Consequently, corrections are to be made only in the lists sent for being displayed at the polling stations. These corrections are not to be incorporated in the original list prepared under Rule 11 containing names of contesting candidates under section 38 of the Act. As we have said earlier, there is no evidence that any of the copies of the list displayed at any polling station did contain the name of the appellant. In fact, no attempt at all was made by the appellant to summon a copy of the corrected list sent to any polling station. The appellant also referred us to Executive Instruction No. 18 issued by the Election Commission, printed at page 86 of 'A Hand Book for Candidates for Election to the House of the People and the Legislative Assemblies,' published by the Election Commission of India in 1957. This instruction No. 18 is to the following effect:—

"18 Clause (b) of sub-rule (1) of Rule 20 requires a copy of the list of contesting candidates in Form 7A with such corrections, if any, as may be necessary by reason of any candidate or candidates having retired from the contest under section 55A, to be displayed outside and inside each polling station. The corrections referred to in the rule cited mean that the entry(ies) relating to the retired candidate(s) should be scored out or better still, pasted over with blank slip(s) of paper. The serial numbers should not, however, be corrected as this may lead to confusion and complications. It is necessary to prepare a list of contesting candidates even in the case of uncontested elections.

In respect of a two member constituency where one of the seats has been filled without a contest, the name of the returned candidate should be scored out or pasted over (in the same way as a retired candidate), but the serial number should not be rearranged."

Even this instruction referred to by the appellant appears to us to be of no assistance to him. Firstly, it is an executive instruction and does not have the force of a statute and, secondly, all that it lays down, is that the corrections referred to in clause (b) of sub-rule (1) of Rule 20 of the Representation of the People (Conduct of elections and election petitions) Rules, 1956, mean that the entry or entries relating to the retired candidate or candidates should be scored out or better still, pasted over with blank slip or slips of paper. In the absence of a copy of the list sent to any of the polling stations, it cannot be held that this instruction was not carried out and that the name of the appellant was not scored out or pasted over with a blank slip of paper in each of those lists sent to the

polling stations. The circumstance relied upon by the appellant also, therefore, does not indicate that he had not retired from the contest.

Besides the contention that there was no actual retirement by the appellant, the appellant also raised a number of objections which, according to him, showed that his retirement was invalid and not effective in law. A general reply to this argument was given by Mr. G. S. Pathak on behalf of the respondent to the effect that, in the case of some of the objections, the appellant was relying on his own conduct and no litigant could be permitted to challenge the validity of an act of his own on the ground of non compliance with the requirements of the law by himself. For an example, one of the objections raised by the appellant was that the retirement form consisted of two parts and no form could be valid unless both the parts were completely filled up or if only one part was filled up and the other was left entirely blank. It appears that, in the notice of retirement, which was handed over by the appellant to the Returning Officer, he made his signatures in both the parts. The first part contains notice of the fact that a candidate has retired from the contest at the election. The second part contains the authorisation of an agent to deliver the notice to the Returning Officer on behalf of the candidate. This part of the form was also signed by the appellant but he did not enter the name of the agent nor did this part contain the signature and postal address of the agent and date, as required by the form. The mere making of the signature by the appellant in this second part of the form seems to us to be quite immaterial. As long as the name of the agent and other particulars were not entered and the appellant merely made his signature on this part, there was no authorisation by him to any agent who could deliver the notice of retirement to the Returning Officer on behalf of the appellant. This was the only effect of the omission to make the remaining entries in this part of the form. This part of the form is independent of the first part wherein the candidate gives notice of his retirement from the contest, and in cases where the form is presented by the candidate himself, the second part becomes redundant and unnecessary and an extra signature of the candidate in the redundant part cannot, in any way, affect the validity of the first part which contains the notice of retirement from the contest provided the candidate himself presents this notice to the Returning Officer, as was done in the present case by the appellant. It was in this connection that Mr. Pathak had urged that the appellant could not be allowed to take advantage of his having made an extra signature on this part of the form for the purpose of urging that the notice of retirement had become invalid in law by this act of his own of putting this extra signature. In any case, we hold that the extra signature by the appellant in the second part without entering the name of any agent and other particulars required in it did not invalidate the notice of retirement when it was duly presented by the appellant himself.

The next point urged by the appellant was that the notice of retirement was invalid as his signatures on both the parts of the notice had been crossed out by him before he presented this notice to the Returning Officer. On this point, reliance was placed by the appellant on the statement of Sri J. M. Raina, Returning Officer who admitted that, at the time when this form was shown to him during the trial of this election petition, it contained marks of scoring out the signatures. This admission was not made in plain language but impliedly Sri Raina was asked whether he had any knowledge of the marks of scoring in this notice of retirement and he stated that he had no such knowledge. He was then asked whether he had any proof that these marks of scoring were made after the form had been presented to him by some one and his answer was that the question did not arise as the signatures were all right at the time of presentation and there were no marks of scoring at that time. He was also asked whether the retirement form when it was presented, had the marks of scoring which were either not detected by him or whether he deliberately accepted the form with a view to help the Congress candidate. Sri Raina replied that the form was without any mark of scoring and he had no interest in helping the Congress candidate. We also examined this notice of retirement for ourselves and we are not at all satisfied that either of the two signatures on it are really scored out. The first name 'Mubarak' in both the signatures is perfectly clear and contains no extra line which might indicate that this part of the name was scored out. In the surname 'Mazdoor' there is a line which runs from beneath the letters 'M' and 'a' and goes through the letter 'z' up to the letter 'd'. It is this line that is relied upon by the appellant as indicating that the name was scored out. Even this line does not score out the full name 'Mazdoor'. On the other hand, the line really appears to be a part of the signature itself made by the appellant himself when putting down the signature with a flourish. The line passes through the middle part of the letter 'z' and could easily have been made if the appellant, when making the signatures wrote the top part of the letter 'z' and went on to produce it by a

flourish to the left downwards and thereafter he might have moved the pen back along that line, then writing out the lower part of the letter 'z' and proceeding thereafter to the letter 'd'. It is significant that in both the signatures in both the parts of this form, the lines occur in the same manner. This state of affairs indicates to us that these lines, if they existed when this notice of retirement was presented to the Returning Officer were not meant to score out the signatures at all. Then there is the explanation suggested on behalf of the respondent for the existence of these lines in view of the categorical statement of the Returning Officer, Sri J. M. Raina, that these lines did not exist when this notice of retirement was presented to him. As we have said earlier, Sri J. M. Raina is a totally independent witness and his evidence that these lines of scoring did not exist when this notice of retirement was presented to him, carries great weight. The suggestion on behalf of the respondent is that the appellant might have made these lines subsequently for purposes of these election petition. It appears that these were two opportunities when the appellant could have done so. The first occasion was when, after the presentation of this notice of retirement, the Returning Officer, Shri J. M. Raina, wrote a short endorsement on it and then handed it over to the appellant himself asking him to take it to the District Election Officer, Shri Faujdar. The other occasion could be when some time subsequently the appellant made an inspection of the records. In fact, during the cross examination, a suggestion was made to the appellant that he might have put the scoring marks at the time of the inspection of records. The appellant's reply was that the inspection was made in the presence of Sri D. S. Faujdar, District Election Officer, the head clerk of the election office and one more person and he could not have put these marks at the time of inspection. It is however, significant that, in the main election petition itself, no mention was made by the appellant of these marks of scoring. If the appellant had in fact deliberately scored out his signatures before presenting this notice of retirement to the Returning Officer as is the case now set up by him, there is no reason why he should not have taken a specific plea in the election petition itself that the signatures were scored out and that the notice of retirement was invalid on that account. The appellant, when asked to explain this circumstances, urged that he did not consider it necessary to make this assertion in the election petition as his case was that he had never presented the retirement form at all and the onus of proving that there was a valid retirement, lay on the respondent. This explanation cannot be considered sufficient. Even if the appellant came up with the case that he had not himself presented this notice of retirement, he could easily have taken a plea in the alternative that the signatures were scored out as a ground for challenging the invalidity of the retirement and this alternative ground would not have militated against his case on the question of presentation. In his evidence the appellant stated that he had deliberately scored out his signatures when he kept the form at his house so that it might not be misused by any one. Even if it was his case that the notice had been misused and had been presented by someone else to the Returning Officer, he could still have asserted in the election petition the fact that the signatures were already scored out before presentation. His failure to do so is a very strong circumstance that leads to the inference that the signatures were never scored out or were at least not scored out before the notice of retirement was presented to Shri J. M. Raina, the Returning Officer. In the circumstances, there is no ground at all to disbelieve the evidence of Sri Raina that these signatures were not scored out when this form was presented to him. Even if these lines did exist at that time, Shri Raina could *bona-fide* make a statement that there was no scoring of the signatures. As we have indicated above, the lines do not amount to scoring out of the signatures and Sri Raina might have failed to take notice of those lines because they had no particular significance at all. Thus this plea of the appellant in support of his contention that the notice of retirement was invalid must be rejected.

The appellant also urged an argument based on the statement of Sri J. M. Raina, Returning Officer, that after this notice of retirement had been presented to him, he handed it back to the appellant for being carried to the District Election Officer, Sri D. S. Faujdar. The contention of the appellant was that the notice of retirement having been returned to him, the earlier presentation became ineffective and, there being no evidence that he again presented it to the Returning Officer, there was no retirement by him at all. It appears to us that this argument is based on a misunderstanding of the evidence of Sri Raina. Sri Raina has not stated that he returned the retirement form to the appellant. His statement is that he handed it over to the appellant himself so that it may be carried by him to the District Election Officer. This step was taken by Sri Raina after making an endorsement on the retirement form. The endorsement was to the following effect:—

"Presented before me personally by Shri M. Mazdoor. To DE. for further necessary action."

After making this endorsement, Sri Raina made his signature under it and put down the date 15th February 1957. The direction in this endorsement to the District Election Officer to take further necessary action is itself indicative of the fact that Sri Raina was not returning this notice of retirement to the appellant but, for the sake of convenience, he was utilising the services of the appellant for transmitting this notice of retirement to the District Election Officer. No doubt, the appellant was not a Government Servant and was not legally bound to carry out the directions of the Returning Officer but it has to be remembered that at the time, when this notice of retirement was presented, Sri Raina could bona fide believe that the appellant was voluntarily presenting this notice of retirement so that there could be no risk at all in requesting the appellant himself to take it to the District Election Officer for further action. There being no return of the notice of retirement to the appellant, no question arises of this notice being again presented before the Returning Officer. The mere handing over of the form to the appellant for being carried to the District Election Officer, in no way, invalidated the earlier presentation, nor did it make the notice ineffective. There is also the circumstance that this notice of retirement had actually reached the hands of Sri Faujdar, District Election Officer, and was produced before the Election Tribunal from the election records of his office. During the course of arguments, the appellant relied on a sentence in the evidence of Sri Faujdar to urge that he could not have handed over the notice of retirement to Sri Faujdar and consequently the evidence of the Returning Officer that he carried it to the District Election Officer should not be believed. The sentence as it appeared in the paper book before us was as follows:—

“From the 15th of February, 1957 and before the date of polling which started from the 25th of February, 1957, Sri Mubarak Mazdoor did not come to me.”

The paper, however, showed that when it was originally typed, the first word in the sentence was ‘after’ and not ‘from’. The word in the typewritten paper-book before us was cut out and changed in ink into the word ‘from’. Consequently, we examined the original record of statement of Sri D. S. Faujdar, prepared by the Election Tribunal, and disclosed that the original word was ‘after’ and not ‘from’. While the word ‘after’ was used by Sri D. S. Faujdar, his evidence did not exclude the possibility of the appellant going to him on the 15th of February, 1957, and handing over this notice of retirement to him, as desired by the Returning Officer, Sri Raina. The argument could only be advanced if the word ‘from’ had occurred in the original. It seems to us that a deliberate attempt had been made to mislead the Court by scoring out the word ‘after’ as typed in the paper-book and substituting it by the word ‘from’. Sri Mubarak Mazdoor gave the explanation that this was done by some clerk who made comparison of the copy with the original. We are not at all satisfied with this explanation as it is the appellant who has certified that “all pages are a true copy of the copies of records supplied to the appellant by the staff of the Election Tribunal”. The appellant was unable to show to us that in the copy, which was supplied to him, the word was ‘from’ and not ‘after’. This attempt to change the word ‘after’ into ‘from’ in the paper book indicates that the case, which has been set up by the appellant is not correct and there is no reason to disbelieve the evidence of the Returning Officer which clearly establishes the fact that the notice of retirement was presented to him by the appellant and thereafter there was no return of it to him. This plea of the appellant, therefore, fails.

The appellant also urged that at the time when this notice of retirement was presented to the Returning Officer, the latter did not take the necessary steps to make this notice effective. According to him, the Returning Officer should have insisted on attestation of the appellant's signatures. This, as we have indicated earlier, was quite unnecessary. The appellant was already known to the Returning Officer who had seen him at the time of nominations and at the time of scrutiny of the nominations. The Returning Officer has also stated that he could see that the signatures were those of the appellant. There were no rules requiring that he should have insisted on attestation and, at the time of the presentation of the notice of retirement, there was no question about the genuineness of the signatures. In fact even during the trial of the election petition, no contention had been put forward by the appellant that the signatures on this notice of retirement were not his. On the other hand, he has admitted that these signatures were made by him so that the genuineness of the signatures is not in doubt. Non-attestation in these circumstances, is not at all material. It was also urged that the Returning Officer did not note down the time of presentation or the fact that he had accepted this notice of retirement. Again the Act and the rules framed thereunder nowhere required that the time of presentation or acceptance of a notice of retirement should be noted down by the Returning Officer on the notice. In this connection, reference was made by the appellant to the fact that, when a nomination paper



or a notice of withdrawal is filed, the time of its presentation is noted down by the Returning Officer and it was urged that, in the same way, the Returning Officer should have noted down the time of presentation of this notice of retirement. It may, however be noted that in the case of a nomination paper or a notice of withdrawal, the rules themselves require that the Returning Officer should note down the time when a nomination paper or a notice of withdrawal was presented to him. Rule 4 of the Representation of the People (Conduct of elections and election petitions) Rules, 1956, lays down that every nomination paper presented under sub-section (1) of section 33 shall be completed in such one of the forms 2A to 2F as may be appropriate. All these forms 2A to 2F include in them a note to be made by the Returning Officer of the time when it was delivered to him. In the case of a notice of withdrawal, Rule 9 of the rules itself lays down that the Returning Officer shall note on it the date on which and the hour at which it was delivered. There is no such rule in respect of a notice of retirement. The relevant rule is Rule 16 and the form of retirement is form No. 12. The rule does not lay down that the time of presentation of a notice of retirement should be noted down, nor does the form contain in it any thing printed indicating that such a requirement should be fulfilled. This explains why, in the present case, the Returning Officer did not note down the time of presentation of this notice of withdrawal. Not being required by the rules, he considered it unnecessary to make any such note. Similarly, there is no requirement that the Returning Officer should note down the acceptance or rejection of the notice of retirement. If the notice of retirement is presented in accordance with section 55A of the Act and within the time prescribed by that provision of law, the retirement becomes effective without any acceptance by the Returning Officer. It is the act of presentation that makes a notice of retirement effective and this presentation was noted down by the Returning Officer on the notice of retirement presented by the appellant. Consequently, there was no such irregularity as can be held to have vitiated the validity of this notice of retirement.

We may lastly deal with one other point which was urged by the appellant to challenge the validity of this notice of retirement. It was argued by him that there was non-compliance with Rule 16(2) of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, and the result of this non-compliance was to invalidate the notice of retirement. Rule 16(2) is as follows:—

“After a copy of the notice has been affixed to his notice board the returning officer shall supply a copy of the notice to each of the remaining contesting candidates or his election agent and shall also cause the same to be published in the Official Gazette.”

The case of the appellant was that copies of the notice were not supplied to each of the remaining candidates and that there was also failure in publishing a copy of the notice in the official gazette. The Gazette of India, dated the 25th of February, 1957, was produced before us to show that the notice of retirement of the appellant was published in it. The appellant contended that this did not satisfy the requirement of Rule 16(2) inasmuch as that issue of the gazette, which was published from New Delhi, could have reached the electorate in this constituency or the remaining contesting candidates only after the polling was over and, consequently, this publication did not amount to sufficient compliance with Rule 16(2). It was further urged that a copy of the notice was not supplied to each candidate as at least one candidate, Bhulai Singh, who was examined by the appellant as a witness stated that he received no copy of that notice of retirement. It appears to us that, in this case, it is not necessary at all to go into the question whether the requirements of Rule 16(2) were or were not complied with. Rule 16(2) only lays down as to what action is to be taken after a notice of retirement is presented. As we have said earlier, the provisions of section 55A of the Act make a notice of retirement effective from the time of its presentation and failure to take any subsequent steps in respect of that notice of retirement cannot affect its validity. If there be any non-compliance with the rules in respect of action to be taken subsequent to the presentation of a notice of retirement, that failure may affect the validity of subsequent election but cannot affect the validity of retirement. In the present case, the appellant had relied on non-compliance with Rule 16(2) not for the purpose of urging that the subsequent election was invalid but for the purpose of urging that the notice of retirement itself had become invalid. This contention has to be rejected. So far as the effect on subsequent election is concerned, it was for the appellant to put forward in the election petition the ground that the election was void because of non-compliance with Rule 16(2). No such ground was taken in the election petition. It has also to be noticed that, once the appellant had validly retired from the contest under section 55A of the Act, there was no question of his interest suffering as a candidate as a result of non-compliance with Rule

16(2). If at all, the grievance could have been made by the remaining contesting candidates who continued as such up to the time of poll. Even Bhulai Singh, who says that he did not receive a copy of the notice of retirement of the appellant, does not say that he had no knowledge of the retirement of the appellant. It was urged by Mr. Pathak, learned counsel for the respondent, that this Rule 16(2) should be interpreted as being directory and not mandatory even though the word 'shall' is used in it. He inferred—and we think rightly—that Rule 16(2) was made for the purpose of informing the candidates, who continued as contesting candidates upto the time of poll, that one of their rival candidates duly nominated had retired from the contest and, if that purpose was served, literal compliance with that rule was not necessary, nor should it be required. Reliance was placed on the decision of the Supreme Court in *Jagan Nath vs. Jaswant Singh and others*, (A.I.R. 1954 S.C. 210) and *Hari Vishnu Kamath vs. Ahmad Ishaque* (A.I.R. 1955 S.C. 233) where it was held that 'shall' has to be interpreted as being mandatory where a penalty for non-compliance was also provided. In the latter case, *Hari Vishnu Kamath vs. Ahmad Ishaque* (A.I.R. 1955 S.C. 233), the Supreme Court interpreted the word 'shall' as used in the Representation of the People Act, 1951 before its amendment in 1956, as being directory and not mandatory on the ground that no penalty was provided. For non-compliance with Rule 16(2) also no penalty is provided and, in such a case, substantial compliance would be sufficient. In the present case, there was actual publication in the official gazette on the 25th of February, 1957, which was the first day of poll and that would be sufficient compliance with the requirement to publish in the official gazette. So far as supplying notices to the remaining contesting candidates is concerned, there is evidence of Sri D. S. Faujdar, a witness examined by the appellant himself, that copies of notices were sent by ordinary post to all the candidates. Under Section 114 of the Indian Evidence Act, there would be a presumption that all the candidates did receive the notices. Even if they did not receive copies of the notice there is the fact that none of the remaining contesting candidates has made a grievance that he had no information of the retirement of the appellant and, while there was no such grievance, the purpose of Rule 16(2) must be held to have been served so that the election would not be invalidated as a result of failing to comply with its requirements literally. The contention of the appellant based on Rule 16(2) also, therefore, fails.

As a result of the findings recorded by us above, all the grounds taken by the appellant for challenging the fact or validity of his retirement from the contest have been decided against the appellant, so that the first four issues have been decided against the appellant.

We now take up issues Nos. 6, 7 and 8 together as they were the next issues argued before us by the appellant at the time of the hearing of the appeal. Issue No. 5 has been ignored by us as the appellant, when arguing the appeal before us, stated that he was giving up this issue and was not going to urge his case on it before us. The three issues, which we have now to deal with, are as follows:—

- “6. Whether the respondent was an elector and whether his name was on the electoral roll of the Muthiganj Polling Station?
7. Whether the respondent was wrongly nominated and whether the result of the election was materially affected by the fact mentioned in paragraphs 19 and 20 of the petition?
8. Whether any objection was raised to the nomination of the respondent on the ground alleged in the petition; if not can the petitioner raise the objection now?”

The two paragraphs 19 and 20, referred to in the election petition in issue No. 7, are as follows:—

“Para. 19.—That the opposite party (Sri Lal Bahadur) was not an elector and his name was not in the copy of the electoral roll kept on the Muthiganj Polling station and therefore he was wrongly nominated.

“Para. 20.—That on the polling date on 12th March 1957 when Sri Lal Bahadur, opposite party, went to the polling station to cast his vote, the polling agent of Sri Radhey Shyam Pathak objected to his being an elector and voter in that constituency as his name was struck off from the roll. On this ground the opposite Party (Sri Lal Bahadur) was not allowed to vote which indicates that he was not an elector

from his residence 209, Muthiganj, Allahabad, as shown in the nomination paper and thus nomination of opposite party was wrongly accepted which has materially affected the result of the election."

This contention was raised by the appellant on the basis of the fact that the name of the respondent was first entered in the general Part A of the electoral roll for the Muthiganj Constituency at No. 2409, as is clear from Ext. 5(a). Subsequently, the name of Sri Lal Bahadur was entered in Part C for the same constituency at Serial No. 1, as appears from Ext. 8(a). There was a slight difference in the entries inasmuch as in Ext. 5(a), his name was entered as 'Lal Bahadur Shastri', while in Ext. 8(a), his name is 'Lal Bahadur'. Further, the address in Ext. 5(a) was '209', whereas the address in Ext. 8(a) is '209' Muthiganj Allahabad. The name, which was first entered in Ext. 5(a), i.e., in the general Part A of the electoral roll for the Muthiganj Constituency, was struck off when it was entered in Part C. The contention of the appellant was that his name having been struck off from Part A and having wrongly entered in Part C, he was not an elector at all so that he was not entitled to be nominated as a candidate and the acceptance of his nomination paper was wrong. In this connection we have to take notice of the provisions of section 36(7) of the Act which lays down that, for purposes of section 36, under which nominations have to be scrutinised, a certified copy of an entry in the electoral roll for the time being in force of a constituency shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that constituency, unless it is proved that he is subject to a disqualification mentioned in section 16 of the Representation of the People Act, 1950 (43 of 1950). In the case of the respondent, his name was entered in Part C of the electoral roll for this very constituency of mohalla Muthiganj which bore No. 333 in respect of the election to the House of the People. That fact is apparent from Ext. 8(a), already referred to, which is a copy of the electoral roll published under the law. The entry in that roll is under section 36(7) of the Act, conclusive proof that the respondent was an elector for this constituency. Since the law lays down that the entry is conclusive proof, we do not consider it permissible for us to go into the question how far that entry was correctly or incorrectly made. The only exception is where the person happens to be disqualified under section 16 of the Representation of the People Act, 1950 (43 of 1950). It was not contended at all by the appellant that the respondent was subject to any disqualification mentioned in section 16 of the representation of the People Act, 1950. The entry in Part C of the electoral roll, therefore, is itself sufficient proof that the respondent was an elector and was, therefore, eligible to be nominated as a candidate. The use of the expression 'conclusive evidence' in section 36(7) of the Act precludes a court or tribunal from admitting evidence on the question whether the respondent was or was not an elector in the constituency. Once the name of a person is entered in the electoral roll of a constituency, the law lays down that that entry is conclusive evidence of the person, whose name is entered, being an elector. It is no longer open to challenge the status of that person as an elector and it is, therefore, unnecessary to examine the evidence to find out under what circumstances his name came to be entered in the electoral roll.

We may also in this connection make a reference to the definition of the word 'elector' contained in section 2(e) of the Act which is as follows:—

"'elector' in relation to a constituency means a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualifications mentioned in section 16 of the Representation of the People Act, 1950."

As we have mentioned earlier, the name of the respondent was entered in Part C of the electoral roll for the Muthiganj Constituency No. 333 for the House of the People and, consequently, under the definition quoted above, he was an elector in relation to this constituency. This definition also makes a person an elector on his name being entered in the electoral roll of that constituency for the time being in force irrespective of the manner in which that name may have been entered and does not permit an investigation of the question whether the entry of the name of the elector in the electoral roll is valid or invalid. The only exception is that the person must not be subject to any of the disqualifications mentioned in section 16 of the Representation of the People Act, 1950, and, as we have said earlier, it was nowhere contended by the appellant that the respondent was subject to any of those disqualifications. The definition of the word 'elector' also, therefore, confirms our view that the mere entry of the name of the respondent in Part C of the electoral roll for this constituency establishes that he was an elector, so that his nomination was not invalidated on the ground urged by the appellant.

Apart from this, we may also mention that we agree with the view taken by the Election Tribunal that the name of the respondent had been correctly entered in Part C of the electoral roll for the Muthiganj Constituency No 333 and the argument advanced by the appellant that that entry was invalid cannot be accepted. Under section 19 of the Representation of the People Act, 1950, every person, who, on the qualifying date, is not less than 21 years of age, and is ordinarily resident in a constituency, is entitled to be registered in the electoral roll for that constituency. It is not denied by the appellant that the respondent is not less than 21 years of age and that he was at one time ordinarily residing in Mohalla Muthiganj at Allahabad, the number of his house being 209A. There is no doubt that this house of the respondent was a rented one and, at the relevant time, i.e., on the qualifying date, the respondent had been living at Delhi as he was a Minister of the Union Government. Under sub-section (1) of section 20 of the Representation of the People Act, 1950, a person is to be deemed to be ordinarily resident in a constituency if he ordinarily resides in that constituency or owns or is in possession of a dwelling house therein. The respondent could, therefore, claim to be enrolled as an elector in the Muthiganj Constituency under one of the three circumstances, viz., that he was ordinarily residing in Mohalla Muthiganj, or that he owned a dwelling house therein, or was in possession of a dwelling house therein. The fact that the respondent was in possession of a rented house in Muthiganj would thus entitle him to be enrolled as an elector in that constituency. It is true that he himself was mostly residing at Delhi because of his appointment as a Minister of the Union Government, but he had not given up his possession of the house in Muthiganj at Allahabad. He was still paying its rent and there was nothing to show that he was ever dispossessed from that house. Further, in sub-section (4) of section 20 of the Representation of the People Act, 1950, a special provision is made for determining the places at which persons governed by that provision of law are to be deemed to be ordinarily resident. Sub-section (4) of section 20 of the Representation of the People Act, 1950, is as follows:—

“Any person holding any office in India declared by the President in consultation with the Election Commission to be an office to which the provisions of this sub-section apply, or

any person who is employed under the Government of India in a post outside India, shall be deemed to be ordinarily resident on any date in the constituency in which, but for the holding of any such office or employment, he would have been ordinarily resident on that date.”

As has been noticed earlier, the respondent had been ordinarily residing in Muthiganj at Allahabad and even on the qualifying date, which was the 1st of March, 1956, he would have been ordinarily resident in the same house in Mohalla Muthiganj at Allahabad but for the fact that he was holding the office of a Minister of the Union Government. It was accepted by the appellant himself that both at the time of the preparation of the first electoral roll in 1950 for elections in 1952 as well as on the relevant qualifying date for the present elections, viz., the 1st of March 1956, a declaration by the President in consultation with the Election Commission was in force declaring the office of a Minister of the Union Government to be an office to which the provisions of sub-section (4) of section 20 of the Representation of the People Act, 1950, apply. Consequently, under section 20(4) of the Representation of the People Act, 1950, the respondent had to be deemed to be ordinarily resident in Muthiganj at Allahabad. Thus, both under section 20(1) and section 20(4) of the Representation of the People Act, 1950 the respondent had to be deemed to be a resident of Muthiganj at Allahabad, under the former provision of law because he was in possession of a dwelling house in Muthiganj and under the latter provision of law because he was holding an office declared by the President to be an office to which the provisions of sub-section (4) of section 20 of the Representation of the People Act 1950, apply and he would have been ordinarily resident in Muthiganj but for the holding of the office of a Minister of the Union Government. The entry of the name of the respondent in Part C of the electoral roll of Muthiganj Constituency No. 333 as an elector was, therefore, a valid entry. The circumstances, under which that entry was made, have also been challenged by the appellant. According to the appellant, this entry was not made in accordance with the procedure laid down under the rules framed under the Representation of the People Act, 1950, known as the Representation of the People (Preparation of Electoral Roll) Rules, 1956. Reliance was placed by the appellant on the provisions in Rule 7 of these rules to the effect that a person seeking his name to be entered in Part C of the electoral roll on the ground that he is holding an office to which sub-section (4) of section 20 of the Representation of the People Act, 1950, applies, must submit his application before the first day of April to the Chief Electoral Officer of the State in which that constituency is situated. In the present case, there can be no

doubt that an application in accordance with this rule was made by the respondent. As held by the Election Tribunal the evidence of Sri D. S. Faujdar, District Election Officer, shows that he did receive an application from the respondent in the appropriate form for the entry of his name in Part C of the electoral roll in accordance with rule 7 of the rules mentioned above. That application itself was not produced and it appears from the evidence of Sri D. S. Faujdar that it had been misplaced. The respondent is not responsible for that misplacement. The application not being available, secondly evidence of its contents was permissible for providing it. Sri D. S. Faujdar had proved the receipt of such an application and his evidence finds support from a letter, Ext. 3, written by the Private Secretary to the respondent, which is addressed to Shri J. M. Raina, District Magistrate, Allahabad. This letter mentions that Form IB was being sent duly filled in by the respondent. The fact that subsequently the name of the respondent was struck off from Part A and entered in Part C of the electoral roll for the Muthiganj constituency taken together with this letter, Ext. 3, and the evidence of Shri D. S. Faujdar proved beyond all doubts that a proper application had been sent by the respondent and that it was in pursuance of that application that his name was entered in Part C of the electoral roll for this constituency. The appellant had urged that the form duly filled in was sent by the respondent beyond the time permitted by law. The case of the appellant was that under Rule 7, mentioned above, the application had to be submitted in that form before the 1st day of April, whereas the letter, Ext. 3, itself shows that the form was sent in the month of June, 1956. It appears to us that this delay in sending the application did not vitiate the action which was taken by the authorities in making appropriate entries in the electoral rolls. The requirement that the application must be submitted before the 1st day of April, contained in Rule 7, is only directory and not mandatory. No penalty is laid down that, in case an application is submitted after the first day of April, it must be rejected and cannot be entertained. Further, the name of the respondent was already entered in Part A of the electoral roll for this constituency and, when he applied for the entry of his name in Part C, it was only an application for transposition of his name from one part of the electoral roll of the same constituency to another part of the electoral roll of the same constituency. It was not the case of an application for a new entry to be made under Rule 7 of the rules referred to above. We do not, therefore, think that it was necessary for him to have applied before the date fixed by Rule 7. In these circumstances, it is clear that at the time when the respondent was nominated, his name was validly entered in the electoral roll for the Muthiganj Constituency No. 333 in Part C.

The appellant also built up some arguments on the basis of the fact that in the copies of the electoral rolls sent to the polling station at Muthiganj there were certain differences. In one of the electoral rolls the name of the respondent continued to exist in Part A and, in fact it is admitted by the respondent that on the basis of that electoral roll, he actually cast his vote for the election of a member to the U.P. Legislative Assembly. In other sets of the electoral roll, his name in Part A was scored out and there was a note that it had been scored out. After the name of the respondent had been transferred to part C of the electoral roll, he was no doubt not entitled to vote at the polling station on the basis of the entry contained in Part A of the electoral roll. He could only vote by a postal ballot. This may, however, only invalidate the vote which he cast in favour of a candidate in the election for the U.P. Legislative Assembly. Such an action on his part cannot be set up as an estoppel against him for holding that his name did not occur in Part C of the electoral roll of this constituency or that the entry in Part C was an invalid entry. The appellant's argument was that once the respondent had exercised his right of vote on the basis of the entry in Part A of the electoral roll, he could not seek his election on the basis of the entry contained in Part C of the electoral roll and it should, therefore, be held that his nomination was void. We cannot accept this argument. What can be void is the vote which was cast by the respondent on the basis of the entry in the electoral roll of the constituency for the U.P. Legislative Assembly because, in fact, orders had already been passed transferring his name to X Part C and striking off his name from Part A. The action, which was taken by him on the basis of the correct entry in Part C, would be a valid action and, consequently his nomination was not invalid. Even on facts, therefore, it has to be held that the respondent was an elector whose name was properly entered in the electoral roll of this constituency of Muthiganj No 333 so that his nomination as a candidate was valid. This finding, given by us above, disposes of issues Nos. 6 and 7.

In view of our decision on issues Nos 6 and 7, issue No. 8 need not be gone into by us as the appellant did not urge that he had raised any objection to the validity of the nomination of the respondent on the ground mentioned above before the Returning Officer. The question whether the appellant could or could

not raise such an objection before the Tribunal in the election petition, when he did not take any objection before the Returning Officer at the time of scrutiny of his nomination, does not arise in our view that the respondent was an elector and was rightly nominated. We, therefore, do not consider it necessary to express any final opinion on issue No. 8.

We now proceed to deal with issues Nos. 9, 10 and 11 which were argued together by the appellant. They are as follows:—

"9. Whether Article 14 of the Constitution had been contravened?

"10. Whether the election has been rendered invalid and whether the same has been materially affected by the facts alleged in paragraphs 22 and 24 of the petition?

11. Whether free copies of the electoral roll were supplied to the respondent and whether the petitioner has to purchase the same on payment of price?"

Paragraphs 22 and 24 of the petition referred to in issue No. 10 are as follows:—

"Para 22.—That rule 5 of the Representation of the People Act, 1952 (conduct of elections and election petitions) Rules, 1956 by its proviso (A) gave an unrestricted and uncontrollable power to the Election Commission in the matter of the choice of the symbols and acting under that power, the Election Commission evolved the whole theory recognised parties and allotment of the same symbol to them in successive elections and to all their candidates in the same election while this facility was denied to other political parties and other independent candidates. This practice further gave advantage to the candidates of the Congress party and other recognised parties inasmuch as their election symbols had been propagated for past 6 years while the petitioner had only 20 days time to bring in the notice of the electorate his symbol. This factor also materially affected the results of the election.

Para. 24.—That opposite party was a candidate of the Indian National Congress which was a party recognised by the Election Commission for the matter of receiving a free copy of the electoral roll."

In dealing with these three issues, we may dispose of No. 11 at the outset as the facts relating to it are very short. Though the appellant had alleged that free copies of the electoral roll were supplied to the respondent and that the appellant had to purchase the same on payment of price, no evidence was forthcoming in support of this allegation. The respondent, when questioned, denied that he had received any free copy of the electoral roll. The evidence of Sri D. S. Faujdar District Election Officer, also shows that no free copy of the electoral roll was actually supplied to the respondent. On the other hand, the evidence is that free copies were given to the Congress Party. It is true that the respondent was a candidate sponsored by the Congress Party and very likely a copy of the electoral roll supplied to the Congress Party was available to him for his use in the election. A reasonable inference can be drawn that it was available for his use because he was the only candidate for the House of the People from this constituency who was put on behalf of the Congress Party. But in considering this point as urged by learned counsel for the respondent we have kept in view the purpose why copies of the electoral roll were given to the Congress Party. That purpose appears from the Representation of the People Act, 1950 and the rules framed thereunder, known as the Representation of the People (Preparation of the Electoral Rolls) Rules, 1956. These rules make it clear that the electoral rolls have to be revised from time to time. At the time of each revision draft electoral rolls have to be published under Rule 10. In addition to draft electoral rolls being published a copy of each part of the electoral rolls together with a copy of the notice in Form 3 has to be made available for inspection at a specified place accessible to the public. This is laid down in rule 11 which makes a further provision of supply of two copies of each separate part of the electoral rolls free of cost to every political party to which a symbol may have been allotted by the Election Commission. This supply of copies of the electoral roll is clearly for the purpose of facilitating the lodging of claims and objection under rule 12 of the Representation of the People (Preparation of Electoral Rolls) Rules, 1956. The supply of free copies of the draft electoral rolls is, therefore, for the specific purpose of making corrections in the draft electoral rolls as to avoid any omission, or incorrect entries in them. It is also clear that such draft electoral rolls cannot be supplied to every individual citizen. In the case of recognised parties their assistance is very valuable and the slight advantage that a party may get because

of receipt of copies of a draft electoral roll subsequently at the time of election cannot be held to bring about a discrimination which has any nexus with the purpose for which the supply of free copies is made. In fact the question of discrimination could only have arisen if copies of final electoral rolls which were to be in force at the time of election were to be supplied free. Supply of copies of draft electoral rolls for the purpose of making corrections therein has no relation at all with the subsequent election which is to take place on the basis of the final electoral rolls. In this case therefore we have to hold that no free copies of the electoral roll were actually supplied to the respondent and that in case free copies of the draft electoral roll were supplied to the party which sponsored his candidature, it did not bring about any discrimination which would be hit by the provisions of Article 14 of the Constitution.

The second ground on which the appellant urged that the provisions of Article 14 of the Constitution were attracted was based on the manner of allotment of symbols to the various candidates contesting the election. Section 169 of the Act gives power to the Central Government after consulting the Election Commission to make rules for carrying out the purposes of the Act and in particular and without prejudice to the generality of that power it is laid down that such rules may provide *inter alia* for the manner in which votes are to be given both generally and in the case of illiterate voters or voters under physical or other disability. In exercise of this power, the relevant rule that was promulgated by the Central Government is Rule 5 of the Representation of the People (Conduct of Elections and Election Petitions) Rule, 1956. Rule 5(1) enjoins that the Election Commission shall, by notification in the official gazette publish a list of symbols and empowers the Election Commission in like manner to amend such list. A list of symbols to be used for elections was notified by the Election Commission on the 12th of November 1956 and was published in the Government of India Gazette (Extraordinary) Part II Section 3, dated the 13th of November, 1956. Rule 5(2) of the rules lays down that every nomination paper presented under sub-section (1) of section 33 shall contain a declaration specifying—

- (a) The particular symbol which the candidate has chosen for his first preference out of the list of symbols published under sub-rule (1); and
- (b) two other symbols out of that list which he has chosen for his second and third preferences respectively.

This sub-rule also makes a general provision which is equally applicable to all the candidates contesting an election. There are however provisions to Rule 5(2) which are relied upon by the appellant in support of his contention on the point mentioned above. The proviso, that need be mentioned is to the effect that—

“the choice to be made by a candidate under this sub-rule shall be subject to such restrictions as the Election Commission may think fit to impose in that behalf.”

In exercise of this power conferred on the Election Commission, the Election Commission issued another notification on the 12th of November, 1956, directing *inter-alia* that no candidate shall choose except with the permission of the Returning Officer any of the symbols specified in items 1 to 4 of the list of symbols published under the earlier notification of the 12th of November, 1956 which has been referred to above. The symbols specified in items 1 to 4 of the list of symbols were—

1. Two bullocks with yoke on,
2. Hut,
3. Ears of corn and a sickle, and
4. Lamp (Deepa).

It is admitted on behalf of both the parties that the limitation placed on the choice of these four symbols was placed by the Election Commission for the purpose of a scheme evolved by the Election Commission of allotting these four symbols to certain recognised parties. It is also admitted that in the preceding general elections held in the year 1952, the symbol of item No. 1 (two bullocks with yoke on) was allotted to the Congress Party. The symbol of item No. 2 (hut) was allotted to the Praja Socialist Party. The symbol of item No. 3 (ears of corn and a sickle) was allotted to the Communist Party and the symbol of item No. 4 [Lamp (deepa)] was allotted to the Bhartiya Jan Sangh Party. The basis on which these four parties were recognised for the purpose of reservation and allotment of these four symbols to them did not appear anywhere in the rules or the notifications issued by the Election Commission which

were brought to our notice during the hearing of the appeal but Mr. G. S. Pathak learned counsel for the respondent stated that the recognition of the parties was based on the receipt of a certain percentage of votes by the candidates of those parties in the preceding general elections. Only those parties whose candidates received a minimum percentage of the votes cast in the general election of 1952 were treated as recognised parties for whom symbols were to be reserved for purposes of allotment. There was then the reorganisation of the States with effect from the 1st of November 1956 whereupon the Election Commission issued a press note dated the 24th of November 1956 headed as follows:—

**"NATIONAL AND STATE PARTIES RECOGNISED BY THE ELECTION COMMISSION IN THE REORGANISED STATES.**

**RESERVATION OF SYMBOLS."**

In this press note dealing with the National and State parties it was stated that the reorganisation of the States had in no way affected the position so far as all India or National parties were concerned. The four National parties recognised namely the Indian National Congress, the Praja Socialist Party, the Communist Party of India and Bhartiya Jan Sangh would therefore continue to be recognised and the same symbols would continue to be reserved for them on an all India basis. From the latter part of this press note it also appears that the criterion for recognising the parties which was mentioned by Mr. Pathak had been adopted by the Election Commission. In this latter part of the press note the Election Commission dealt with the reservation of symbols for the State parties and it was said that in deciding this question the Commission had again adopted the same standard of recognition of a party namely a minimum of 3 per cent. of the valid votes polled in the Assembly or Electoral College elections in the State. This indicates that in deciding the question of recognition of National parties and the allotment of symbols to those parties for election to the House of the People the Commission had adopted the standard of recognition of a party which had received a minimum of 3 per cent. of the valid votes polled by the party in the election for the House of the People. It would thus appear that by the 24th of November 1956, the candidates whose candidatures were sponsored by any of these four recognised parties knew what symbols were going to be allotted to them irrespective of the choice of symbols exercised by the candidates when filing their nomination papers under Rules 5 of the Representation of the People (Conduct of Elections and Election Petitions) Rules 1956 mentioned above. On the other hand there was no recognition of symbols for any independent candidate. They had to express their choice of symbols in accordance with Rule 5 in their nomination papers and then under Rule 10 symbols were to be allotted to them by the Returning Officer in accordance with the principles laid down in that rule.

The contention of the appellant is that this manner of allotting symbols adopted by the Election Commission gave an unfair advantage to the candidates sponsored by the recognised parties as against independent candidates because of the fact that the candidates sponsored by the recognised parties knew their symbols by the 24th of November 1956, when the press note was issued by the Election Commission whereas the independent candidates came to know of their symbols only after symbols were allotted to them under Rule 10 after their nomination papers had been scrutinised. The result was that in this particular case the candidates sponsored by the recognised parties knew their symbols three months before the first date of poll, whereas the independent candidates came to know of their symbols only about 21 days before the first date of poll as the scrutiny took place on the 4th of February 1957. On behalf of the respondent Mr. Pathak urged that this earlier knowledge of symbols did not result in any advantage to the candidates sponsored by the recognised parties as would appear from the purpose for which the symbols were allotted. There can be no doubt that the objection of adopting the system of the allotting symbols and having those symbols drawn on the ballot boxes of the candidates was to provide facility to illiterate voters in casting their votes for the candidates of their choice. As urged by Mr. Pathak, it is correct that the choice of a candidate by an elector does not depend on the symbol allotted to him. The choice would be influenced it appears to us by two main factors. The first factor would be the personal qualifications of the candidate and the second would be the policy advocated by that candidate whether in his individual capacity or as a member of a recognised party. An elector who has to take into consideration the personal qualifications of a candidate or the policies advocated by him individually or as a member of a party is not likely to be influenced by the allotment of a particular symbol to that candidate whether he be an independent candidate or a candidate set up by a recognised party.



The appellant however, put forward the case in an entirely different aspect in order to urge that the procedure adopted by the Election Commission for allotment of symbols gave an advantage to a party candidate as against an independent candidate. The object of allotment of symbols as has been mentioned earlier was to facilitate voting by illiterate voters. An illiterate voter having once decided in whose favour he was going to cast his vote could only do so at the time of polling if he knew what was the symbol of that candidate. In order to enable a voter to thus vote for him a candidate selected by the voter had to inform that voter about his own symbol and until the voter came to know of that symbol he could not cast his vote in favour of that candidate. The procedure adopted by the Election Commission by which the candidates of the recognised Parties came to know of their symbols about three months before the date of poll enabled those candidates to utilise that period of three months to approach their voters and inform them of their symbols. An independent candidate on the other hand had only 21 days in which he could approach his voters and inform them as to his symbol. It is true that even the candidates set up by the recognised parties could not claim to candidates asking for votes from the electorate until their nomination papers had been scrutinised and they were declared as duly nominated candidates but we have to keep in view at the same time that canvassing amongst the electors does not start only after the list of duly nominated candidates has been drawn. Canvassing starts much earlier. In fact section 79 of the Act recognised the existence of this situation when defying the words 'candidate'. A candidate is defined to mean a person who has been or claims to have been duly nominated as a candidate at any election, and any such person shall be deemed to have been a candidate as from the time when with the election in prospect he began to hold himself out as a prospective candidate. All persons intending to contest the election could hold themselves out as prospective candidates long before their nominations took place. Having held themselves out as candidates they could approach the voters and ask them for their votes during the period prior to the allotment of symbols to independent candidates. The candidates who were holding themselves out as prospective candidates sponsored by the recognised parties, could not only approach the voters to vote for them but could further tell them what were to be their symbols so that after nominations it was not essential for them to approach the voters again and tell them what their symbols were. On the other hand the independent candidates, though they could approach the voters for the purpose of asking for their votes could not inform the voters of their symbols until after the nominations had been scrutinised and symbols allotted to them under Rule 10. For the purpose of informing their voters of the symbols allotted to them the candidate sponsored by the recognised parties thus had a period of about three months available to them, whereas the same work had to be done by the independent candidates within a much shorter period of only 21 days. The elections were large in number and it is doubtful whether every elector could be approached by every candidate even during the whole of the period in which the candidates could carry on their canvassing after having held themselves out as prospective candidates. In any case it does appear that the candidates sponsored by the recognised parties could approach a much larger number of voters and inform them of their symbols because they had a period of about three months at their disposal for this purpose whereas the independent candidates had a limited period of 21 days only and it can therefore be reasonably inferred that they could not approach the same number of voters in order to inform them of their symbols. It appears to us that this discrimination brought about by the rules promulgated by the Central Government in consultation with the Election Commission and by the procedure adopted by the Election Commission in actually allotting symbols did give an advantage to the party candidates over the independent candidates but it seems to us that in this particular case which is before us it is not necessary to express any final opinion on this point because of the view we are taking that even if there was any such discrimination, it did not and could not possibly materially affect the result of the election. We also therefore consider it unnecessary to go into the point urged by the appellant that the power of allotting symbols which has been given to the Election Commission was totally arbitrary and was actually exercised in an arbitrary manner in favour of the candidates sponsored by the recognised parties, nor is it necessary for us to decide how far this argument put forward by the appellant is supported by the decision in the State of West Bengal *vs.* Anwar Ali Sarkar and another (A.I.R. S.C. 75).

We may incidentally mention that Mr. Pathak on behalf of the respondent while contending that there was no discrimination urged that even if we be

of the view of that there was discrimination we should hold that this discrimination was justified by the principles of classification which have been recognised in applying the provisions of Article 14 of the Constitution. He urged that the preamble to the Constitution should that India was constituted into a Sovereign Democratic Republic and the other provisions of the Constitution indicated that our system of democracy was primarily modelled on the British system. In such a democracy an individual cannot form a Government. The Government has to be run by a party or a group of members in the Parliament. No doubt Articles 74 and 75 of the Constitution do not specifically lay down that the Prime Minister or Ministers are to be chosen on the basis of enjoying the confidence of the majority party in the House of the People but it is clear from the other provisions of the Constitution that no council of Ministers can carry on the Government unless it commands the confidence of the majority of the members. If at any time party in power loses the confidence of the majority of the members of the Government has to resign. Under Article 105 of the Constitution the powers, privileges and immunities of each House of Parliament and of the members and the committees of each house have been laid down to be such as may from time to time be defined by Parliament by law and until so defined they are to be those of the House of Commons of the Parliament of the United Kingdom and of its members and committees at the commencement of the Constitution. From these provisions Mr. Pathak drew an inference that the system of Government for which these general elections were held in 1957 was a democracy in which the Government had to be carried on on the party system. Such being the form of Government even if there be a discrimination in favour of candidates sponsored by recognised parties the discrimination would be justified under Article 14 of the Constitution. The parties and independent candidates cannot be placed on the same footing in the matter of forming a Council of Ministers, and carrying on the Government and since the elections were held principally for the purpose of forming the Government and carrying on its functions and duties the classification which gave any preference to parties over individuals would be a classification having nexus with the purpose for which the elections were held. It appears to us that there is something to be said for the view put forward by Mr. Pathak but, at least in this case, we need not pronounce finally on this point either and, consequently, we proceed to deal with the third aspect of the case as a result of which we consider that this ground taken by the appellant for challenging the validity of the election of the respondent has to be rejected.

The point, which we have to deal with at this stage, has already been mentioned earlier and is based on the contention of Mr. Pathak, learned counsel for the respondent, that in this case in fact the result of the election was not and could not possibly be materially affected by the alleged discrimination. We are of the opinion that this contention of Mr. Pathak must be accepted. We have already mentioned, when narrating the facts of the case, that six candidates were nominated from this constituency of whom two, namely, Shri Moti Lal Dwivedi and Shri Niranjan Lal Bhargava, withdrew their candidatures within the time prescribed by law. Thereupon four contesting candidates were left in the field, namely, the appellant, the respondent, Shri Radhey Shyam Pathak and Shri Bhulai Singh. Subsequently, the appellant also retired from the contest on the 15th of February, 1957, so that the contest at the time of the poll was between only three candidates, namely, the respondent, Shri Radhey Shyam Pathak and Shri Bhulai Singh. These three candidates were all of them sponsored by the recognised parties. The respondent stood on behalf of the Congress Party, Shri Radhey Shyam Pathak on behalf of the Praja Socialist Party and Shri Bhulai Singh on behalf of the Bhartiya Jan Sangh Party. The three candidates, who contested the actual election at the poll, were, persons who were placed in exactly similar circumstances with regard to the allotment of symbols. The symbols had been reserved by the Election Commission for all the three parties on whose behalf these three candidates sought election and every one of these candidates simultaneously knew which was to be his symbol. Consequently, as between these three candidates none received any advantage over another in the matter of approaching the electors and informing them of their symbols. The position might have been different if the appellant has also continued as a candidate in the field and had actually contested the election at the time of polling. In the election petition and in this appeal before us, the appellant had contended that he had not retired from the contest but that contention of his has been negatived and it has already been held by us that he had retired from the contest and that that retirement of his was valid. The result of this retirement by the appellant was that the contest at the poll was confined to three candidates, each of whom was sponsored by a recognised party and was equally placed in the matter of receiving his symbol from the Election

Commission. There could, therefore, be no question of the result of the election being materially affected by the procedure which was laid down by the Election Commission for allotting symbols, even if it be held that that procedure involved a discrimination between the candidates sponsored by the recognised parties and the independent candidates. There being no independent candidates. There being no independent candidates in the field, no occasion arose for any discriminatory treatment having been actually practised in this election. There being no discrimination, the question of the result of the election being materially affected by it could not arise. It has also to be noticed that, in this case the appellant has nowhere come forward with even a suggestion that he had retired from the contest as a result of the discrimination brought about by this procedure relating to the allotment of symbols. In case the appellant had put forward the plea that he had retired from the contest because of the disadvantageous position in which he was placed due to discriminatory procedure relating to allotment of symbols, it might have been necessary to decide whether there was actual discrimination and, further, whether that discrimination was not justified on a rational classification related to the purpose for which the rules bringing about the discrimination had been framed. The appellant, however, came forward with the plea that he had never retired from the contest at all and did not further allege that, even if he did retire, his retirement was, in any way, influenced by this discriminatory procedure. In dealing, therefore with the question whether the result of the election was materially affected by the alleged discriminatory procedure, the candidature of the appellant has to be ignored and the material effect on the result has to be judged only between those candidates who continued to contest the election at the time of the polling in *Syed Qasim Rizvi and others vs. State of Hyderabad and others* (A.I.R. 1953 S.C. 156), the Supreme Court dealt with a question in which a part of the trial could not be challenged as bad and the validity of the other part depended on the question as to whether the accused had been deprived of equal protection in the matter of procedure. It was held that

"It is incumbent upon the court to consider, first, whether the discriminatory or unequal provisions of law could be separated from the rest and even without them a fair measure of equality in the matter of procedure could be secured to the accused. In the second place, it has got to consider whether the procedure actually followed did or did not proceed upon the basis of the discriminatory provisions. In our opinion, a mere threat or possibility of unequal treatment is not sufficient. If actually the accused has been discriminated against, then and then only he can complain, not otherwise."

This decision of the Supreme Court makes it clear that, unless a discriminatory provision has come into operation and has actually brought about unequal protection in matters of procedure, the courts will not hold that the proceeding was invalid. In the case before us, as we have already pointed out above, the alleged discriminatory procedure prescribed by Election Commission in the matter of allotment of symbols did not at all affect the present election, so that there was no actual discrimination between the candidates who contested the election at the time of the polling. There may earlier have been a threat or possibility of unequal treatment while the appellant was also a candidate but such a mere threat or possibility of unequal treatment is not sufficient to invalidate the election as a whole. When the election could not be materially affected and invalidated as a result of these provisions relating to allotment of symbols, it is not at all necessary for us to pronounce finally on the question whether the provisions were really discriminatory in nature or not and thereafter to examine the further proposition that, even if they were discriminatory, they might be justified by a proper classification. So far as this case is concerned, we have to hold that the provisions of Articles 14 of the Constitution were not attracted at all and the election was a valid one so that this ground taken by the appellant also fails.

We now come to the last point which was argued before us by the appellant relating to the breach of the provisions of section 77 of the Act based on his pleading contained in paragraph 17 of the election petition. Paragraph 17 of the election petition was as follows:—

"That the opposite party committed corrupt practice of spending on his election by himself, through his election agent and other agents with his consent the amount which was far in excess of the maximum amount permitted under section 77 of the Representation of the People Act, 1951. He also did not include these expenses in his election return at all from which it is clear that in the accounts

maintained by him under section 77 of the Representation of the People Act, 1951, these expenses were not shown. The details of these expenses are given in schedule 'C' attached to this petition and which forms part of this petition."

Originally, when this plea was taken by the appellant he had contended that, by this pleading, he intended to allege that the respondent had committed breaches of all the three provisions contained in sub-sections (1), (2) and (3) of section 77. In his arguments before us, however, he gave up his contention that the breaches of the provisions of sub-section (1) and (2) of section 77 of the Act also constituted commission of corrupt practices and invalidated the election, so that he confined his arguments before us to the breach of the provisions of sub-section (3) of section 77 of the Act alone. Sub-section (3) of section 77 of the Act read with sub-sections (1) and (2) of that section lays down that the total of all expenditures in connection with the election of a candidate incurred or authorized by him or by his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof must not exceed such amount as may be prescribed. It was admitted that the prescribed amount was Rs. 25,000. The return of expenses filed on behalf of the respondent showed that a total amount of Rs. 11,438-13-9 only had been incurred in connection with his election by the respondent and included all expenditures authorised by him or incurred or authorised by his election agent. In these circumstances, the burden lay on the appellant to prove that, in fact, such expenditure incurred or authorised by the respondent or his election agent exceeded the sum of Rs. 11,438-13-9 by a sum greater than Rs. 13,561-2-3. In order to discharge his burden of proof, the appellant produced a large number of witnesses out of whom the appellant relied before us on P.W. 5 Jagat Narain Gupta, P.W. 6 Shambhu Nath Srivastava, P.W. 8 Mohammad Idris, P.W. 11 Bashir Ahmad, P.W. 13 Krishna Prakash Tewari, P.W. 15 Vijai Pratap Singh Rathore, P.W. 17 Ishtiaq Hussain Mirza, P.W. 20 Abdul Rashid and P.W. 21 Kamla Kant Sharma. These witnesses came to give evidence to prove that certain meetings were held by the respondent or on his behalf in which expenses were incurred which have either not been shown at all in the return of expenses of the respondent or have been shown incorrectly. These witnesses gave evidence in respect of meetings at places which were mentioned in the new Schedule 'C' which was filed with an application for amendment of the election petition with reference to paragraph 17 of the petition which has been reproduced above. In this Schedule 'C', various places of meetings were mentioned giving further details of the dates when these meetings were held and of the persons who addressed these meetings. The expenses which, according to the appellant, should have been included in the return of expenses under section 77 of the Act and were not actually included consisted of expenditure in organising and in making arrangements for these meetings as well as of travelling expenses of the persons who came to address these meetings. Besides these meetings, the appellant also led evidence before the Election Tribunal with regard to expenses alleged to have been incurred by the respondent in some other meetings which were not mentioned in Schedule 'C' or on other items of expenditure which were not included in Schedule 'C'. The appellant, in the course of arguments before us, wanted to rely on the evidence which he had tendered in respect of the latter class of meetings and items of expenditure but we did not permit him to argue this part of the case as we held that these items of expenditure and the holding of those meetings had not been alleged in the election petition or in the schedule attached thereto and, consequently, the appellant was not entitled to rely on the evidence tendered by him in respect of them. It has to be kept in view that the appellant, in arguing this issue, relied only on the breach of sub-section (3) of section 77 of the Act, which breach is a corrupt practice under section 123(6) of the Act. In respect of every corrupt practice including the corrupt practice indicated in section 123(6) of the Act, the appellant was required to give particulars in his election petition including as full a statement as possible of the names of the parties alleged to have committed the corrupt practices and the dates and places of commission of all such corrupt practices. In the election petition and the schedule attached to it, even after amendment, there was no mention at all of any expenditure having been incurred on meetings at these places in respect of which we excluded his evidence. There being no mention of those items of expenditure, there was no question of there being full particulars or there being a statement as full as possible giving the names of the parties alleged to have committed the corrupt practices and the dates and places of the commission of the corrupt practices. When no such information was given in the pleadings the appellant was not entitled to lead evidence in respect of them. It may also be mentioned that, on behalf of the respondent, a plea was put forward that the appellant was not entitled to adduce evidence in respect of those items of expenditure in respect of which there were no pleadings with the necessary particulars

and the Tribunal also, in its judgment, accepted this plea put forward on behalf of the respondent. We consider that the Tribunal was perfectly justified in excluding from consideration this evidence tendered by the appellant and it is for this reason that we have also excluded that evidence from consideration so, that, in dealing with this question, we have to confine ourselves to the evidence of the appellant which related to commission of this corrupt practice in so far as the particulars of it had already been given in the election petition or in Schedule 'C' attached to it.

We have already mentioned above that, in order to prove the commission of this corrupt practice of incurring expenditure in excess of the prescribed limit with reference to the particulars which were given in the election petition and Schedule 'C', the appellant had relied on the statements of 9 witnesses whose names have been reproduced by us earlier. It would, however, appear that not one of these witnesses was in a position to give definite evidence on which findings could be recorded as to the amount of expenditure incurred at any of those meetings or on travelling expenses of the speakers who addressed those meetings. Some of the witnesses gave vague estimates of the amounts which, according to them, must have been spent. Those estimates were also based on any data. They were unable to give the details of what they observed in the meetings from which they gave estimates of the amounts of expenditure that had been incurred. A number of witnesses had to admit that they were giving their estimates of the expenditure incurred by mere guess or were only expressing what the expenditure must have been in their opinion. Not one of those witnesses claimed or could claim to be an expert whose opinion or estimate could be treated as relevant evidence on the question of the amounts of expenditure incurred in those meetings. In all these circumstances, we think that it is not necessary to examine the evidence of these witnesses in detail and to discuss it at great length. The Tribunal had the benefit of watching the demeanour of these witnesses when they gave their evidence before the Tribunal and the Tribunal considered that their evidence was not reliable. The appellant has not been able to give us any cogent reasons on the basis of which we can differ from the view taken by the Tribunal as to the unreliability of the evidence of these witnesses. This is an additional reason why we consider that the appellant has not succeeded in proving by the evidence of these witnesses that the respondent had himself or through his election agent incurred or authorised expenditure of an amount in excess of the prescribed limit.

Apart from the evidence, which was given by the appellant, the appellant also relied on certain admissions contained in the evidence of the respondent himself and his witnesses to contend that there were some expenses which were incurred or authorised by the respondent and which have not been included in his return of election expenses. The main items, on which the appellant relied in this respect, were the expenses incurred on the travelling of Sri Jawahar Lal Nehru when he came to give speeches in this constituency in support of the candidature of the respondent and the expenses which were incurred by the District Congress Committee for the furtherance of the election of the respondent. On behalf of the respondent, the reply of Mr. Pathak was that there was no evidence at all to show that any amount at all was spent by the respondent on Sri Jawahar Lal Nehru for his travelling when he came to address meetings in this constituency and that, if any expenses were incurred by the District Congress Committee, it cannot be said that that expenditure was incurred or authorised by the respondent or by his election agent. It was further urged that, even in these two cases, there was no evidence at all tendered by the appellant to show as to what were the actual expenses incurred on the travelling of Sri Jawahar Lal Nehru or by the District Congress Committee for the purpose of supporting the candidature of the respondent. The appellant urged that the facts relating to the actual expenses incurred on these two items must be presumed to be in the special knowledge of the appellant and the burden of proving the expenses lay on him. Mr. Pathak, in this connection, drew our attention to Rule 131 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, which prescribes the manner in which accounts of election expenses are to be kept by a candidate or his election agent under section 77 of the Act, and in this connection, also referred to the old Rule 112 in the corresponding rules which had been framed and were in force under the Representation of the People Act, 1951, before its amendment in 1956. Those were the rules that were applicable when the general elections were held in the year 1952. The old Rule 112 laid down that a return of election expenses had to be in Form 26 and was to contain the particulars specified in paragraphs 1 and 2 of the Schedule IV. The form in the schedule showed that the return of expenses, which had then to be filed, had to disclose the sources of all money shown as expenses in the return and that the return was to include all expenses not only incurred by the candidate

but also all expenses incurred on his behalf or in his interest. According to the provisions contained in those rules, therefore, the return had to include in it expenses incurred on behalf of a candidate or in his interest even though the expenses might not have been incurred or authorised by him or his election agent. The present Rule 131, with which the respondent was required to comply, no longer contains that requirement. Under the new rule, only those expenses had to be shown in the return which were either incurred or authorised by the candidate himself or his election agent. If expenses were incurred by any other person in the interest of the respondent but without any authorisation by him or his election agent, the present rule did not require the respondent to show these expenses in his return. Reliance was placed on this change in the rules to urge that, if any expenses were incurred on the travelling of Sri Jawahar Lal Nehru or by the District Congress Committee the respondent was under no obligation to show them in the return and, consequently, no burden lay on him to prove these amounts. If the appellant relied for his case on the fact that expenses were incurred on the travelling of Sri Jawahar Lal Nehru or by the District Congress Committee and those expenses were covered by the provisions of section 77 of the Act, the burden lay entirely on him not only to prove that some such expenses were incurred but also to prove the amounts of those expenses. The general principle that facts in the knowledge of a particular person must be proved by him, cannot, therefore, be applied to this part of the case of the appellant. There being no obligation to show these expenses in his accounts, there could be no burden on him of proving what the amounts were. The consequence is that the burden being on the appellant, it was for him to prove by affirmative evidence what expenses had been incurred on the travelling of Sri Jawaharlal Nehru or by the District Congress Committee. The appellant completely failed to do so. Once again, all that he succeeded in showing by the evidence led by him, was that possibly some expenses were incurred by the District Congress Committee on the travelling of Sri Jawaharlal Nehru but he was unable to lead any evidence to show that any of those expenses were incurred or authorised by the respondent or his election agent and, further, he failed to prove the amounts of those expenses. On behalf of the respondent, evidence was led to prove that Sri Jawaharlal Nehru actually went for only one particular meeting outside Allahabad city in this constituency to address that meeting in support of the candidature of the respondent, that on that occasion expenses were incurred by the respondent and these expenses have been shown by him in his election return. We find no reason to disbelieve this evidence which was given on behalf of the respondent. The appellant challenged the correctness of the return filed by the respondent in order to meet this argument on the basis of a statement which was made by Gopi Nath Khanna, who was the office Secretary of the District Congress Committee and who was incharge of the accounts of the Committee including the accounts of the election expenses of the respondent. Gopi Nath Khanna, in his evidence, stated that he used to maintain the account of expenditure regarding those candidates whose work used to be done from the office of the District Congress Committee where he was working and that he used to pay money for the respondent also. In his cross-examination, he stated that the vouchers for all items of expenses had been pasted in a guard file as proof of the amount that had been spent and that he handed over all the vouchers and receipts to the District Congress Committee. He was asked when he handed them over and to whom, and he stated that he handed over the papers to the President and Secretaries of the District Congress Committee when he left the service of the Committee. He had further stated that he worked in this office till June, 1957. From these answers given by Gopi Nath Khanna in his cross-examination, the appellant sought to infer that there were at least some vouchers in respect of the election expenses of the respondent which were in his possession in June 1957, and which he handed over to the President and the Secretaries of the District Congress Committee at the time of handing over charge in June, 1957, long after the return of the election expenses had already been filed by the respondent in April, 1957. It, however, appears that the answers, that were given by this witness, were given in some confusion and it was for this reason that the Tribunal questioned this witness to clarify the point. In answer to the question put by the Tribunal, the witness stated that all the vouchers and the receipts, paid or unpaid, had been pasted in a guard file along with the election expenses return. Thereafter the appellant further questioned this witness and then he made a clearer statement that all the bills, vouchers, paid and unpaid, and receipts were pasted on the guard file and they were submitted to the Government." He stated that he filed the return of election expenses along with all these vouchers and receipts etc. He further stated that he handed over all these papers at the election office at Allahabad and that they were received by the clerk. Who was incharge in the office of the District Election Authorities though he was unable to give the name of the clerk. He went on to state that he handed over those papers to that clerk personally and obtained a receipt for

handing them over. In our opinion, it would not be proper at all to base our decision on the earlier replies given by this witness which were clearly given in some confusion in his mind about what had actually happened. It has to be noticed that this witness Gopi Nath Khanna was examined only a little less than a year after the return of election expenses with the vouchers etc. had been filed in the District Election Office at Allahabad, and, consequently, this slight confusion in his mind was possibly due to lapse of memory. Later, when questions were put in a clearer form, his answers showed that no vouchers or receipts relating to the election expenses of the respondent were retained by him in his possession when the return was filed. They had all been pasted in a guard file and were submitted to the Election Office with the return of election expenses. The evidence of this witness cannot, therefore, be relied upon by the appellant in support of his contention that some vouchers and receipts were suppressed and that the return does not give a correct picture of the election expenses incurred by the respondent or by his election agent. In this state of evidence we can come to no other conclusion except that the appellant has failed to establish that any expenses were incurred or authorised by the respondent or his election agent on travelling of Sri Jawaharlal Nehru or that the expenses, which were incurred by the District Congress Committee, were incurred or authorised by the respondent or his election agent. We may mention that the case put forward on behalf of the respondent was that Sri Jawaharlal Nehru was travelling to do propaganda on behalf of the All India Congress Committee and it was very likely that that Committee was bearing the expenses of his travelling. There is nothing to show that this is not correct. We may also deal with the argument of the appellant that the All India Congress Committee and the District Congress Committee should be held to be agents of the respondent and, consequently, any expenses incurred by them should be treated as expenses either incurred by the respondent or at least authorised by him. We do not think that there are any facts and circumstances which show that either the All India Congress Committee or the District Congress Committee was agent of the respondent within the definition of the word 'agent' as contained in Explanation (1) to section 123 of the Act. It seems to us to be unnecessary to discuss the question of agency in detail as there are no particular facts and circumstances in this case which would justify a finding that the All India Congress Committee or the District Congress Committee was agent of the respondent in this election. In this connection, we may refer to a judgment of the Bombay High Court which does not appear to have been reported but was given in the case of *Prabhudas son of Ramjibhai vs. Jorsang son of Kusal Singh* and was published in the Bombay Government Gazette (Extraordinary), dated the 8th of September, 1958, at page 942 onwards, where the Bombay High Court held that it was not possible for that court to accept the suggestion that the District Congress Committee was in the position of an agent of the respondent in that case. We may also take notice of an argument which was advanced by Mr. Pathak on the basis of the word 'incurred or authorised' used in section 77 of the Act. The Act uses the word 'incurred or authorised' and neither of them can mean the same thing as the 'expression' with the 'Consent of'. The word 'authorised' is not equivalent to the expression 'with the consent or in the knowledge of' so that the law now requires something more than mere consent or knowledge of a candidate to the incurring of expenses and that something is that the expenditure must have been authorised by him or by his election agent. It has not been shown that the All India Congress Committee or the District Congress Committee had any authority from the respondent to incur expenses on his behalf and there is no presumption in law that such an authorisation must have been obtained. It is possible that the respondent might have had some knowledge that expenses were being incurred by these bodies but a mere knowledge does not render that expenditure accountable by the respondent under section 77 of the Act. For all these reasons, the plea taken by the appellant that the respondent had committed the corrupt practice of incurring expenditure in excess of the limit prescribed under section 77 of the Act also fails and must be rejected.

In the election petition, the appellant had taken some other grounds for challenging the validity of the election of the respondent and for seeking a declaration that the election was void. Some of those grounds were given up before the Election Tribunal. The other grounds, which has not been discussed by us in our judgment so far, were given up by the appellant before us and he advanced no arguments at all in respect of them so that we are not dealing with them. The grounds, which were urged by the appellant, have already been discussed in full by us and the findings on all of them are against the appellant, with the result that his appeal must fail.

The appeal is, accordingly, dismissed with costs which we fix at Rs. 500.

Dated, the 24th December, 1958.

(Sd.) V. B.

(Sd.) J. N. T.

[No. 82/336/57/5092.]

New Delhi, the 26th March 1959

**S.O. 702.**—In pursuance of the provisions of sub-section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 4 of 1959, presented to the Commission on the 10th March, 1959, under section 81 of the said Act, by Shri Lakshmikant Mahadeo Chakradeo (318 Charni Road, Bombay, calling in question the election to the House of the People from the Nagpur-Umrer constituency of that House, of Shri. Madhava Shreehari Aney, resident of Nagpur.

SHREE

ELECTION

PETITION

filed by

Mr. L. M. CHAKRADEO

in respect of the BYE-ELECTION for  
the NAGPUR-UMRER (Bombay State)

Parliamentary Constituency,  
on

31st Jan. and 1st Feb. 1959.

at which

Shree M. S. ANEY

has been declared elected.

318 Charni Road,

Bombay 4.

7th March '59.

Presented to me by Shri L. M. Chakradeo whose signature has been obtained in the margin and attested as having been signed before me this the 10th day of March One Thousand Nine Hundred and Fifty-nine.

Sd./- L. M. CHAKRADEO.

Attested

Sd./- DIN DAYAL.

Sd./- DIN DAYAL, Secretary.  
Election Commission, India

10-3-59.

10-3-59

BEFORE THE ELECTION TRIBUNAL AT-----

ELECTION PETITION No. 4 of 1959

Mr. Lakshmikant Mahadeo Chakradeo..... Petitioner  
residing at 318 Charni Road, Bombay-4.

versus

Mr. Madhava Shreehar/ Aney M.P. .... Respondent.  
residing at NAGPUR.

This humble petition of the petitioner above-named most respectfully sheweth as follows:—

1. That the petitioner is a resident of Bombay.
2. That the respondent is a resident of Nagpur.
3. That the petitioner filed his Nomination Paper with a view to contest a seat for the Parliament of India, from the Nagpur-Umrer Parliamentary Constituency at the bye-election that was held on 31st January and 1st February 1959, for the said Constituency.
4. That for that bye-election the other candidates who filed their Nomination Papers and who ultimately stood for the election were one Mr. M. S. Aney, another Bar. B. D. Khobragade and the third one Mr. Haridas Aware.
5. That Mr. M. S. Aney was successful at the election.
6. That the petitioner filed his Nomination paper on 16th December 1958 and presented it personally, together with the prescribed deposit of Rs. 500/-, to the Asstt. Returning Officer Mr. Khan who was the officer for the purpose for the said bye-election: the nomination paper was taken by him on that day.



7. That on 23rd December 1958, the Returning Officer Mr. R. N. Pendharkar declared that the Petitioner's Nomination Paper was rejected on the ground that he, the Returning Officer, had received a telegram from the Election Commission, India New Delhi, intimating to him that a disqualification had been imposed on the Petitioner by reason of the petitioner not having complied with the rules relating to the submission of the statement of accounts etc. of the Election Expenses that the petitioner had incurred at the time he contested the seat at the 1957 General Elections from the Shahdol Double Seat Constituency of the Madhya Pradesh.

8. That on 22nd April 1957 after the election that was held in February and March 1957 in respect of the said Shahdol Constituency, which election the Petitioner contested as aforesaid, the petitioner sent his statement of election Expenses together with the certain vouchers, namely 84 in number, in respect of the expenses incurred by him, to the Returning Officer, Shahdol; that the petitioner could not send 19 more vouchers which he had with himself as they were required by the petitioner for certain purposes like production of some of them before the Income-Tax officer and some others for production before the Court in connection with the certain case the Petitioner wanted to institute against some party who had cheated him in a certain transaction, the petitioner had entered into in February 1957. Exhibit "A", Herewith annexed and marked Exhibit "A" is a copy of the letter written by the Petitioner to the R. O. Shahdol on 22nd April 1957 giving cover to the Account of Election Expenses, and the 84 vouchers sent to the R. O.

9. That the petitioner did not think it necessary that the said 19 vouchers which he had kept back with himself were absolutely necessary to be filed immediately and along with the Statement of Election Expenses; but the petitioner did eventually submit these also to the R. O. SHAHDOL, as per details given hereinafter.

10. That the petitioner was informed by the Election Commission by their letter dated 16/18 September 1957, that they had imposed a disqualification upon the petitioner on the grounds namely:—

- (1) that the account was submitted late by one day;
- (2) that the expenditure incurred on the Assembly Constituency was included in the said accounts; and
- (3) that SOME vouchers were not included.

11. That the said disqualification was notified on 29th August 1957 and that it was to take effect from 29th October 1957 unless it was removed before that date. Herewith annexed and marked Exhibit "B" collectively, is a copy of the said letter dated 16/18 September 1957 and the said Notification of 29 August 1957.

12. That much before the time limit allowed in the notification above referred to namely 29th October 1957, the petitioner made his representation to the Election Commission on 18th October 1957 as and by way of a reply to the said grounds which were intimated to him in respect of the said disqualification. 14 out of these 19 retained vouchers were sent with this Rep. Herewith annexed and marked Exhibit "C" is a copy of the said representation dated 18th October 1957.

13. That to this reply and representation of the petitioner there was no reply from the Election Commission or from the R. O. Shahdol for about six months and thereby they gave an impression to the petitioner that they had accepted the explanation and reply that was given by the petitioner and the petitioner believed that they were satisfied with that explanation and that the 'disqualification' automatically stood removed.

14. That thereafter the petitioner received a letter dated 17th April 1958 from the Election Commission stating therein that they had received the representation dated 18th October 1957, that the R. O. had reported that the petitioner had not till then filed the complete vouchers for all the expenses; that out of 84 vouchers only 14 had been sent with the representation; that the remaining vouchers should be filed with the R. O. Shahdol, and that only thereafter could the petitioner's request for the removal of the disqualification, be considered. Herewith annexed and marked Exhibit "D" is a copy of the said letter dated 17th April 1958.

15. That the petitioner thought that the remark in that letter namely that "the R. O. Shahdol reported that the petitioner had not still filed the complete vouchers for all the expenses" meant and referred to none other than the 5 vouchers still remaining with the petitioner out of 19 vouchers originally withheld by the petitioner which he was unable to send in company with the 84 vouchers sent on 22nd April 1957 or in company with the 14 vouchers sent on 18th October 1957

under cover of the Representation; that the petitioner also thought that the remark namely that "out of 84 vouchers only 14 had been sent with the representation" was made by the Election Commission obviously out of some mis-understanding because as a matter of fact, the petitioner had sent till then 14 vouchers IN ADDITION to the 84 and it was not as if the petitioner had sent 14 vouchers OUT OF 84; that the petitioner further thought and *bona fide* thought—that all matters would be cleared up when the petitioner would be able to send the remaining 5 vouchers. But as the said five vouchers were at that time lying with the Petitioner's lawyer who was asked to consider the advisability or otherwise of filing a certain case for cheating against some third party in respect of a certain transaction that had taken place between the petitioner and the said third party about a car which the petitioner had hired in February 1957 for the purpose of touring the area from which the petitioner had stood for election, the petitioner could not send the said vouchers immediately.

16. That thereafter, the petitioner brought back these five vouchers from his lawyer and sent those to the Election Commission on 30th November 1958 accompanied by an explanatory letter as to why the petitioner could not send the said five vouchers also, earlier. The petitioner has not received any letter in reply to this letter, from the Election Commission.

17. That a copy of the letter dated 30th November 1958 above referred to, was sent by the petitioner to the Returning Officer Shahdol under cover of a separate letter to him also dated 30th November 1958 drawing his attention to the mis-understanding that was caused in the mind of the Election Commission due to some letter he, the R. O., may have sent to the Election Commission and requesting him to remove that misunderstanding and to recommend that the disqualification imposed on the petitioner be removed. Herewith annexed and marked Exhibit "E" collectively, is a copy of the letters dated 30th November 1957 one to the Election Commission and the other to the Returning Officer.

18. That even though the letter to the Election Commission did not elicit any reply from them, the R. O. Shahdol responded by his letter dated 8th December 1958. Herein he admitted that between himself and the Election Commission 84 plus 14 plus 5 i.e. in all 103 vouchers were received, and adds that this fact was brought to the notice of the Election Commission. He then goes on to say that at the time of the scrutiny of the petitioner's election expenses it was noticed that 84 vouchers were required in addition to the vouchers sent by the petitioner with the return (*viz.* 84) and that after considering the 14 and 5 vouchers sent later on he wanted the petitioner to submit 65 more vouchers pertaining to payments for petrol, other lubricants, pay to drivers etc. Herewith annexed and marked Exhibit "F" is a copy of the letter dated 8th December 1958 from which the petitioner comes to know for the first time that the word 'some' in the letter dated 16/18 September 1957 by the Election Commission to the petitioner referred to as many as and such a large number as 84 vouchers, when an equal number of vouchers *viz.* 84 was sent with the 'return' of election Expenses.

19. That the petitioner sent a reply to this letter of the R.O. by his letter dated 10th December 1958 in which he pointed out that he was trying his best to get vouchers for the 65 items of expense brought to the notice of the petitioner for the first time by the R. O. in his aforesaid letter but that it would be quite difficult to get any; that the spirit of the rule 131(3) could not be any other than to ensure that the accounts were submitted by any candidate FULLY, that no foul play was indulged in by any candidate and that the limit placed on the expenses was not exceeded; that the petitioner had included each and every item of expense in the 'return' which the petitioner had submitted; hence a substantial compliance of the rules regarding filing of expenses was secured and carried out by the petitioner; that the non-sending of a voucher for each and every item of expense could not on reasonable consideration of the rules in that respect be said to be of such a gravity that it should automatically result into the Election Commission imposing a disqualification upon the petitioner thereby disentitling the petitioner from standing for any election; that therefore the technical objection regarding the vouchers, particularly when they were not available, should be waived and that the necessary recommendation be made urgently to the Election Commission for the removal of the disqualification imposed on the petitioner.

20. That in this letter dated 10th December 1958, the petitioner drew the pointed attention of the R. O. to the urgency of the removal of the disqualification because the petitioner intended to contest for a seat on the Parliament at the by-election that was to be held from the Nagpur—Umrer Parliamentary Constituency, the last date for filing the nomination for which was 20th December 1958. Herewith annexed and marked Exhibit "G" is a copy of the letter dated 10th December 1958 from the petitioner to the Returning Officer, Shahdol.

20A. That the petitioner was able to get vouchers for 28 items out of the 65 suggested by the R. O. in his letter dated 8th December 1958, but there was no separate voucher for each item, as several of them were grouped together and in all there were five (5) vouchers covering those 28 items and there is no rule that each item of expense should have its own separate voucher individually. These 5 vouchers were sent to the Election Commission by the petitioner under cover of the letter dated 14th December 1958, in which letter the Election Commission's attention was pointedly drawn to the fact that the petitioner was contesting for the bye-election from the Nagpur-Umrer constituency, the last date for filing the nomination paper for which was 26th December 1958, JUST FIVE OR SIX DAYS hence. The petitioner urged upon the Election Commission to remove the disqualification well before that date on the merits of the case of the petitioner.

21. That on the same day i.e., on 14th December, 1958, the petitioner sent a similar letter to the Returning Officer Shahdol, reiterating the request that he should immediately and urgently write to the Election Commission recommending to them that the Disqualification imposed upon the petitioner be removed before the 20th of December, 1958 so that there would be no bar preventing him from contesting the bye-election. Herewith annexed and marked Exh. "H" (Exhibit "H" collectively.) is a copy of the two letters dated 14th December, 1958, by the petitioner, one to the Election Commission and the other to the R. O.

22. That the petitioner then went to Nagpur and on 16th December, 1958 filed his Nomination paper with and paid the prescribed deposit of Rs. 500 to the Asst. Returning Officer, Nagpur—Umrer Constituency bye-election.

23. That there after the petitioner went to Delhi and saw the under-secretary to the Election Commission on the evening of 17th December, 1958, accompanied by his advocate Mr. Ramphal Bansal, with a memorandum-petition inviting therein the attention of the authorities to the urgency of the matter of removing the disqualification imposed upon him; that when the petitioner and his advocate opened this topic with the Under Secretary, the petitioner was told that he should wait for a day or two during which time they would receive the necessary clarification and reply from the R. O. Shahdol in reply to their letter to him dated 15th or 16th December, 1958.

24. That the petitioner handed over to the Under Secretary a letter or memorandum dated 18th December, 1958 stating in short therein the position in the matter and the contention, the petitioner intended to place before the Election Commissioner, for his kind consideration; that at the same time the petitioner sent on 19th December, 1958 at 12 o'clock a telegram to Shree Sundaram, the Election Commissioner and to Shree Krishnaswamy Iyengar, the Secretary to the Election Commission as follows:—

"I make this sos appeal. Kindly cancel my disqualification today itself.. Unjustifiable punishing hundred percent honesty for sheer technicality while dishonesty would not have even created my disqualification. Read particularly last two pages my yesterday's Letter with Nadkarni. Chakradco."

25. That on 19th December, 1958 the petitioner obtained a voucher from the General Secretary Bharateeva Jana Sangha New Delhi, for further 14 items of expense out of the 65 and filed it with the Secretary, Election Commn. together with an affidavit under the seal and signature of an 'oath-commissioner'.

26. That thereafter on 20th December, 1958 the petitioner and his legal adviser Mr. Bansal saw Shree Roy, the Secretary to the Election Commission and explained to him the extreme urgency of removing the disqualification imposed upon him. He suggested that a separate affidavit be filed in respect of the remaining 18 items of expenditure left unvouched, even though these also were mentioned in the former affidavit. The petitioner complied with the suggestions of Mr. Roy fully by filing the affidavit.

27. That at the end of the interview the petitioner had with Mr. Roy, the Secretary, while handing over the affidavit, the petitioner was given an impression that the whole position would be cleared by 3 p.m. on that day which was a Saturday and that the matter would be quite smooth. But to the surprise of the petitioner, nothing came out of it all ultimately except that the petitioner learnt that he should see the Election Commissioner himself, if the petitioner so desired, on Monday the 22nd December, 1958; that the petitioner did see the Election Commissioner accordingly but he did nothing in the matter.

28. That thereafter it appears that presumbaly the Election Commission intimated to the R. O. Nagpur-Umrer Constituency, telegraphically, that the disqualification imposed upon the petitioner was not till then removed and hence the Nomination paper filed by the petitioner should be rejected at the time of the scrutiny at 11 p.m. on 23rd December, 1958, at Nagpur.

29. That ultimately on 23rd December, 1958, the R. O. Nagpur, rejected the petitioner's Nomination Paper and the petitioner was thus prevented from contesting the election in exercise of the most fundamental Electoral Right given to him under the Constitution of India read with the Manual of Election Law.

30. That ultimately the Election Commission was pleased to remove the disqualification imposed upon the petitioner, by their notification dated 21st January, 1959, obviously because they were satisfied and fully satisfied that the disqualification was not correctly imposed, that there was sufficient compliance with the rules and regulations by reason of the fact that the petitioner had complied with the conditions of sending the account and vouchers and of removing the irregularities therein by all that the petitioner had done till 20th December, 1958, when last, the petitioner handed over the affidavit to Mr. Roy, the Secretary to the Election Commission.

31. That it is prudent to note that the evidence on which the Election Commission came to the conclusion of the necessity of removing the disqualification imposed upon the petitioner WAS BEFORE THE COMMISSION on 19th or 20th December, 1958 and if they had meant to act promptly and expeditiously there was no necessity for them to wait for passing the necessary orders of removal of the disqualification and keep the matter pending till 21st January, 1959, so as to deprive the petitioner of his right to exercise his Electoral Rights because of the rejection of his Nomination Paper by the R. O. Nagpur on 23rd December, 1958.

32. That the petitioner prays that under the circumstances mentioned above, it may be declared that the election of the returned candidate at the Nagpur-Umrer bye-election, namely of Mr. M S. Aney is void and that therefore, the bye-election may be set aside and a fresh election be ordered to be held on the following among other grounds:—

G. (1) That Section 7 (c) of Act 43 of 1951 viz., the Representation of the People Act 1951, is bad in law as it is framed in breach of sound principles of Natural Justice, Equity and Good Conscience; in-as-much as it results into an automatic disqualification which comes into effect WITHOUT there having been afforded to the Candidate any opportunity whatsoever, of being heard in respect of the causes leading to the disqualification, which creates a bar to the exercise of his most fundamental right to stand for an election, in future for a period of three years.

G. (2) That rules 131 and 131 (3) on proper interpretation require only that the Account of Election Expenses' to be submitted to the Returning Officer must have disclosed in EACH AND EVERY item of expense incurred by the candidate for his election work but it cannot be said that the rules make it MANDATORY that each and every item of expense should also be supported by a voucher, so as to result into a disqualification contemplated by Sec. 7 (c) of Act 43 of 1951.

G. (3) That the word 'SHALL' in these rules on proper interpretation being put on them, must be deemed to have been used in the sense of 'MAY' and the rules regarding the production of vouchers must be deemed to be only RECOMMENDATORY and NOT Mandatory, as a voucher is nothing more than a piece of evidence in support of the fact that that particular expense was incurred as per the item already disclosed by the candidate, in the body of the account.

G. (4) That the non-production of a voucher in the case of an item in the election expenses should, at the most, lead to the same 'ADVERSE INFERENCE' that is drawn in case a voucher is not produced in normal book-keeping and Accountancy. Similarly, the 'penalty' that may follow the adverse inference in the case of the election expenses should not be any more severe than what follows exactly the same 'adverse inference' in normal book-keeping. It will be quite improper to interpret the word 'SHALL' to mean that the production of a voucher for EVERY item of expense is MANDATORY because its non-production leads to a penalty—and that too automatically:—namely of deprivation of the Candidate of his most fundamental right of Democracy viz., the ELECTORAL RIGHT to contest an election, which is FAR OUT OF PROPORTION to the irregularity. It also violates the basic principle of 'like punishment for like offence' because the non-production of a voucher in normal book-keeping, makes it necessary for the party failing to produce the voucher to MAKE GOOD the amount of expense referred to, while the same irregularity in connection with

the Election levies on the party viz., the candidate the VERY VERY HEAVY PUNISHMENT of the deprivation of his most precious right of being able to contest an election. Further, it must be noted that all restrictions on one's right to vote formerly imposed due to any irregularity in submission of election expenses, have been removed by Act 27 of 1956 viz., the Representation of the People (Second Amendment) Act, 1956. Now, according to the Constitution, the right to vote and the right to be able to stand for an election ARE ABSOLUTELY CO-EQUAL vide Section 4 (d) of the Principal Act. If the restrictions on the right to vote have been removed for any irregularity in submission of election expenses, it would be wrong to suppose that the same continue on the exercise of the right to stand for an election. This anomaly will be solved if the word 'SHALI' in the rules is understood to have force of 'MAY' only, so that the production of a voucher for each and every item of expense becomes only recommendatory.

G. (5). That it is improper and unfair to construe the Rules 131 (2) and 131 (3) to mean that failure to submit a voucher even for a SINGLE ITEM OF ELECTION EXPENSE should result into a disqualification leading to the candidate being deprived of his sacred Electoral right, while many acts of commission and omission on the part of an individual, both as a voter and as a candidate, create no bar on his most basic and elementary right in democracy viz., the electoral right to vote at an election and to stand as a candidate at any election.

G.(6). That the statement of the authorities of the Election Commission namely that "the disqualification was imposed because 'SOME' vouchers were not enclosed with the accounts" resulted into entirely misleading the Petitioner he was thereby led to bona fide believe that that word 'SOME' referred to just the 19 vouchers which he had withheld for reasons stated in his letter dated 22nd April, 1957.

G.(7). That on the back-ground of the fact that the petitioner had sent with the account of his election expenses as many as 84 vouchers, the word 'SOME' could never be interpreted and understood to mean any number larger than five, ten, fifteen or so on the outside. The petitioner was therefore right and quite justified in interpreting the word 'some' to refer to only the 19 vouchers, which he had withheld.

G (8). That, if the Election Commission had not paraphrased into 'SOME' but faithfully transmitted to the petitioner, the report of the Returning Officer Shahdol, to the effect that 84 more vouchers were required to be filed according to the rules (in spite of the fact that and in addition to the EIGHTY FOUR vouchers which he had actually sent) he would have immediately moved to do in the matter of the irregularity being removed and/or corrected, all that he did after coming to know that fact from the letter of the Returning Officer SHAHDOL, dated 8th DEC. 1958, such that the disqualification could have been removed within the period of TWO MONTHS, from 29th August, 1957 to 29th October, 1957, so that the BLOT of having incurred a disqualification and it having been imposed upon him from 29th October, 1957, would never have tarnished the fair and good name of the petitioner.

G.(9). That when TWO months time was given by Section 8(b) to the candidate to correct any irregularities in the submission of his Accounts, the time lost by the Election Commission from the date of the Notification viz., 29th August, 1957 upto the receipt of their letter dated 16/18 September 1957 by the Petitioner, in which they communicated the grounds for the imposition of the disqualification, is TOO INORDINATELY LONG thereby shortening the time allowed to the petitioner by the said section to meet the grounds and correct the irregularities; that the Election Commission should have intimated to the petitioner immediately when they 'DECIDED' that the account of election expenses had not been lodged within the time and in the manner required by or under the Act (wording of the SECTION 8(b)), that the petitioner had incurred a disqualification; that the Election Commission should have intimated this to the Petitioner simultaneously when they sent this matter for publication in the Gazette. In fine, the period of two months should be computed from the date the petitioner gets the letter from the Election Commission intimating the grounds for imposing disqualification and not from the date of publication of the relevant issue of the Gazette; that if this full period of two months was at the disposal of the petitioner, he may have gone deeper into the meaning of the 'grounds' and corrected the irregularities within the period of two months and kept his name un-tarnished.

G.(10). That, in effect, the Election Commission using the word 'some' in communicating to the petitioner the irregularity in respect of the vouchers, and on the strength of that imposing the disqualification upon the petitioner, amounted to convicting an accused person on an erroneous and is sufficient and hence

defective charge-sheet. The petitioner was not provided with "true, correct and complete COPIES" as the term goes; that as a consequence, the petitioner's case suffered to a substantial extent, hence the imposition of the disqualification was improper, as a consequence, the rejection of the petitioner's nomination paper based on the improper and illegal disqualification is also illegal and unexercisable. Hence finally the bye-election held without the petitioner as one of the contesting candidates is null and void and hence a fresh election be ordered by this Honorable Tribunal.

G.(11). That the petitioner has given in the body of his account of election expenses, all the information regarding each and every item of expense as required by rule 131 (1) and hence all the action the Election Commission may have wished to take or has taken with regard to the items of expense for which vouchers have been produced could have been taken by the Election Commission with regard to remaining items also even though no vouchers may have been submitted for them. The information given was quite enough to judge the properness or impropriety of these items of expense also and hence no importance attaches itself to the vouchers themselves even if they were produced. Hence the rules 131 (2) and 131 (3) must be so construed as to hold that the word SHALL appearing therein has the force of only MAY. This view is further strengthened by the fact that many vendors do not have any printed bill or receipt forms and in such cases only ordinary paper is used; further, cash memos are often not signed by the vendor. If all the information as required by rule 131 (1) written on a blank piece of paper and not signed by the vendor is considered and accepted to be a valid voucher, the same information written down by the petitioner in the body of the account of election expenses, should be considered to be equally acceptable and quite enough.

G.(12). That at the time of the election, **EVERY MINUTE IS VALUABLE** and no candidate can afford to waste any time in waiting to secure a voucher when the vendor is busy in some other work, which is bound to be a case in many purchases or payments made very often at odd hours and at odd places such as in transit, and sometimes to illiterate persons, that as a consequence every contesting candidate **IS BOUND TO HAVE** at least some items of his election expense for which he will not be able to obtain and possess a voucher, that if the word SHALL in the said rules is interpreted to have an obligatory or mandatory force, it would be an **OPEN INVITATION** to the candidate simply to drop from the account of his Election Expenses those items for which he may not have any vouchers; that it would be quite impossible for the Election Commission to detect or check such items and their wrongful suppression, particularly in the case of a defeated candidate which the petitioner is because his competitors are not interested in keeping any watch over him; that a law or rule which compels persons to do wrong things to avoid the *rigours of law* without doing any good to anyone, must be considered to be bad in law; and that to avoid all this, the most proper thing is to interpret the word SHALL in the said rules to have the force of MAY with the result that production of a voucher does not become mandatory but only recommendatory, thereby allowing the candidate to honestly enumerate all the items of his election expenses.

G.(13). That the petitioner had informed the Election Commission about the urgency of the case and of the need for their considering his papers with the *maximum expedition possible* as he was standing for the Nagpur-Umrer bye election, that instead of sending the petitioner's letter dated 14th December 1958 and the five vouchers and the recast account of election expense accompanying it, to the Returning Officer Shahdol they should have called ALL the papers with the R.O. from Shahdol to New Delhi, (which action they did take eventually as intimated to the petitioner by the R.O. Shahdol by his letter dated 10th January 1959); that the petitioner did everything necessary for him to observe even the letter of the law before 20th December 1958 the last date for filing the nomination paper for the Nagpur Umrer bye election for which he was contesting; that if the Election Commission had cared to realise the urgency and seriousness of the situation and had genuinely wished and tried to respect, and honour the electoral rights of a citizen of Democratic and Free Bharat, which the petitioner undoubtedly is, they could have removed the disqualification, without prejudice to any person or to any section or rule of the Law on 20th December 1958 itself thus enabling the Petitioner to stand for the said bye-election. But alas, the Election Commission did not do anything of the kind and ignored the sanctity of the electoral rights of a citizen of Bharat by being quite complacent and working just like a machine sticking to the usual routine and notorious official RED-TAPE. The result was that the petitioner was deprived most unjustly, of his right to stand for the Nagpur-Umrer bye-election.

G.(14). That it is not the duty or the practice of the Election Commission to write or wire to every Returning Officer at every election or bye-election intimating to him about the disqualification or otherwise of each of the candidates who may have filed the nomination paper; that in the present case of the petitioner the Election Commission went entirely out of its way in wiring to the R.O. Nagpur on 22nd or 23rd December 1958 that a disqualification was clamped on Mr. L. M. Chakradeo, that even though he had made a representation to get it removed it was not removed till then and that as a result, the R.O. should reject his Nomination paper.

G.(15). That it is the most fundamental assumption and principle of justice that EVERY PERSON, including one who is undergoing a trial, IS INNOCENT in the eyes of the LAW unless and until ones guilt is proved in a court of law after the accused is given full opportunity to explain his case and defend himself and unless and until a sentence is passed by the court of law. NOT ONLY THIS; if the accused files an appeal or a petition or a revision application against his conviction by a lower court, HE CONTINUES TO BE CONSIDERED INNOCENT until the appeal, or the petition or the revision application is disposed off, that a notification published in a gazette about a candidate having incurred a disqualification is nothing but a charge-sheet; normally two months time is given to the candidate, here the petitioner, to offer his explanation during which period the disqualification does not take effect; that the petitioner has filed his representation before the expiry of this period of two months; that following the general principle of law mentioned above the petitioner could not be considered to be guilty of any action leading to a disqualification being imposed DURING THE PENDENCY OF THE REPRESENTATION; that therefore it would be wrong to suppose that as on 20th December on 23rd December 1958, the petitioner was really and justly disqualified; that hence the R.O. NAGPUR was not justified in rejecting the Nomination Paper of the Petitioner and hence the election held without the petitioner being one of the contesting candidates must be considered to be null and void and hence this Honorable Tribunal should be pleased to order a fresh bye Election for the Nagpur-Umrer Parliamentary Constituency

#### PRAYER

(A) That the Petitioner therefore prays that the bye-election held on 31st January and 1st February 1959 for the Nagpur-Umrer Parliamentary Constituency, whereat Shree Madhav Shreehari Aney was declared to have been elected, from the said Constituency. May be declared as void and

(B) a fresh election be ordered to be held by this Honorable Election Tribunal.

That for this act of kindness the petitioner as in duty bound ever remains grateful.

L. M. CHAKRADEO,

The 6th day of February 1959.

Signature of the Petitioner.

#### Verification

I, Lakshmikant Mahadeo Chakradeo, residing at 318 Charni Road, Bombay 4, do hereby state and verify that what is stated in paragraphs 1, 3, part 4, 5, 6, part 7, 8 to 14, part 15, 16, 17, 18, part 19, 20 to 23, part 24, 25, 26, 27, part 28, part 29, 30 and part 31 of this petition is true to my knowledge and what is stated in paragraphs part 4, part 7, part 15, part 19, part 24, part 28, part 29, part 31, 32, G.1 to G.15 and prayers A & B is stated on information and I believe the same to be true.

L. M. CHAKRADEO,

Dated this 6th day of March 1959.

Signature of petitioner.

318 Charni Road, BOMBAY-4.

Attested

Sd/-

Oaths Commissioner, Delhi State, 9-3-59.

*List of Exhibits annexed to the Election Petition filed by Mr. L. M. Chakradeo, in respect of the bye election held for the Nagpur-Umrer, (Bombay State) Parliamentary Constituency, on 31st January, and 1st February, 1959, at which Shree M. S. Aney has been declared successful.*

Exhibit	Copy of letter	From	To	Dated
"A"	-do-	L.M. Chakradeo	Returning Officer Shahdol	22/4/1957
"B"	-do-	Election Commn.	L.M.C.	16-18/9/1957
Collective	NOTIFICATION	-do-	-do-	29/8/1957
"C"	REPRESENTATION	L.M. Chakradeo	El. Commn.	18/10/1957
"D"	Copy of letter	Elec. Commn.	L.M.C.	17/4/1958
"E"	-do-	L.M. Chakradeo	El. Commn.	30/11/1958
Collec.	-do-	-do-	R.O. S'dol.	-do-
"F"	-do-	R.O. Shahdol	L.M.C.	8/12/1958
"G"	-do-	L.M. Chakradeo	R.O. S'dol	10/12/1958
"H"	-do-	-do-	El. Commn.	14/12/1958
Collec.	-do-	-do-	R.O. S'dol	-do-

#### Verification

I, Lakshmikant Mahadeo Chakradeo, residing at 318, Charni Road, Bombay 4, do hereby state and verify that what is stated in Exhibits part. Exh. A, part Exh. B., (colle), part C, part D, part Exh. E (Colle), part F, part G and part Exh. (H) (Colle) of the annexures is true to my knowledge and what is stated in Exhibits part (A), part Exh. B. (Collev), part Exh. (c), part Exh. D, part Exh. (E) (collev), Part F, part G and part Exh. H. (Collev) is stated as information and I believe the same to be true.

Sd./- LAKSHMIKANT

MAHADEO CHAKRADEO.

Dated the 6th day of March, 1959.

Petitioner.

318, Charni Road, Bombay-4.

Attested.

Sd./- Oaths Commissioner, Delhi State.

9th March, 1959.

EXHIBIT A.—Copy of letter from the Petitioner to the Returning Officer, Shahdol, dated 22

318 Charni Road, Bombay, 4.

22nd April, 1957.

The Returning Officer, Shahdol Parliamentary Constituency, and Collector of Shahdol (V.P.).

SHAHDOL

Dear Sir,

I was a candidate contesting for the general seat of the above viz. Shahdol Parliamentary Constituency. I have pleasure to enclose herewith 'THE ACCOUNT OF MY ELECTION EXPENSES' in form R. H. 17. There are no outstanding to be paid except the three items mentioned on page 7 viz., estimated repairs to



Vauxhall, estimated repairs to Chevrolet, and rental to be paid to Mr. Farnandes for one amplifier set.

Thus the latter part of Column 'C' and columns 'g' and 'h' do not find a place in my 'ACCOUNT'.

The amounts were paid on the day of incurring the expense and hence columns 'a' and 'd' are identical.

The names and addresses of the payees are of no consequence in most cases and have been omitted. But they are there on the vouchers which are sent. If needs be, the names and addresses can be found from them.

There are in all 85 vouchers [82 numbered consecutively and the three vouchers bearing the numbers 56(a), 63(a) and 66(a)] concerning the expenses made through my own hand. Out of these I have not sent the following to you because they refer to outright purchase of certain tangible assets of permanent value or because I require them here for income-tax purposes, or for some litigation. In case you are keen on perusing the same I will be pleased to send them also for FAVOUR OF PERUSAL and RETURN viz. voucher Nos. 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 26, 27, 28, 30, 31, 41, 42, and 70. Thus that bunch of vouchers contains 66 vouchers.

There are 18 vouchers in respect of monies spent through the hands of my assistant Mr. Chavan who was in charge of the Chevrolet for the electioneering campaign. All these vouchers are there in the second bunch of vouchers.

I trust you will find all my expenses in order. If any further information is required in connection with my 'Account', I am at your disposal any time you want me.

I secured about 39,000 votes and my deposit has not been confiscated. I enclose the ORIGINAL RECEIPT passed by yourself to me on 29th Jan. 57, the printed No. being 79566 cash book 3-II No. being 163 dated 29th January 1957 for the amount of Rs. 500.

Kindly refund this amount of Rs. 500 to me at an early date and oblige.

I need that amount immediately because I want to file an ELECTION PETITION APPLICATION. The time limit for this will expire at the end of another two weeks only. As per rules I have to deposit the sum of Rs. 1000 only along with that petition application. As I have not much money left with me I depend upon you for at least half the amount of the deposit which you have to pay me by way of refund of the DEPOSIT paid by me at the time of my filing my nomination paper of 29th January 1957.

Hoping that you will be pleased to favour me with the payment of Rs. 500 by return and thanking you in anticipation,

Yours faithfully,

Sd/- L. M. CHAKRADEO.

Enclosures:—

1. Account of Election expenses 7 pages.
2. A bunch of 66 vouchers,
3. A bunch of 18 vouchers, and
4. Receipt No. 79566 dated 29th January 1957 for the amount of Rs. 500.

EXHIBIT "B" COLLECTIVELY.

*Copy of letter from the Election Commn. to the petitioner dated 16th—18th September, 1957.*

AND

*Copy of Notification dated 29th August, 1957.*

No. MP/189/57/5729.

Regd. A.D.

1 Aurangzeb Road. New Delhi 2.

ELECTION COMMISSION, INDIA

From the Secretary, Election Commission, India, dated the 16/18 September, 1957.  
To,

Shri Chakradeo Laxmikant Mahadeo, 299d Radhakrishna Bldg.  
Charni Road, Bombay-4.

SUBJECT:—Account of Election Expenses.

Sir,

I am directed to forward herewith a copy of the Commission's Notification No MP-P/189/57 (84) dated the 29th August 1957 issued under sub-rule 4 of rule 134 of the Rep. of the People (Conduct of Elections and Election Petitions)

Rules 1956 and to say that the disqualification incurred by you under Section 7 (c) of the Rep. of the People Act 1951 will take effect from 29th October, 1957, unless it has been removed earlier by the Commission.

The grounds for which you have been disqualified are stated on the reverse.

Yours faithfully,

Sd./- A. S. NADKARNI, Under Secy.

#### Grounds

1. Your account of Election expenses was lodged with the Returning Officer on the 25th Day of April, 1957, which was one day after the last date therefor (Please see Sec., 78 of the Rep. of the People Act, 1951.)

2. (A) Expenditure incurred for election from the Assembly Constituency has been included in the return of expenses for the Parliamentary Constituency, and

(B) Some vouchers have not been enclosed with the Account.

(To be Published in the Next Issue of Gazette of India part II, Sec. 3.)

#### ELECTION COMMISSION, INDIA

No. MP.-P/189/57 (84)

dated 29th August, 1957.

#### NOTIFICATION

In pursuance of sub-rule (4) of rule 134 of the Rep. of the People (Conduct of Elections and Elections Petitions) Rules 1956, the Election Commission hereby notifies the name of the person shown in Column 1 of the schedule below who having been a contesting candidate for election to the House of the People from the Constituency specified in column 2 thereof at the General Elections held in 1957, has in accordance with the decision given by the Election Commission under sub rule (3) of the said rule failed to lodge his account of election expenses within the time and in the manner required by law and has therefore incurred the disqualification under clause (c) of section 7 of the Rep. of the People Act 1951 (Act 43 of 1951.)

#### SCHEDULE

Name of the contesting candidate.

Name of Constituency

1.

2

Shree CHAKRADEO LAKSHMIKANT MAHADEO  
299-D Radhakrishna Building, Charni Road,  
BOMBAY.

Shahdol

By order,

A. KRISHNASWAMY AIYANGAR,  
Secretary to the Elec. Commn.

EXHIBIT "C".

*Copy of Representation made by the Petitioner to the Election Commission dated 18th October, 1957.*

318 Charni Road, Bombay 4. 18th October, 1957.  
The Election Commissioner,  
1 Aurangzeb Road, New Delhi 2.

Dear Sir,

SUBJECT:—Account of Election Expenses.

I duly received your letter No. MP/189/57/5729 dated 18th September, 1957, giving cover to a copy of the Notification by the Election Commission No. MP-P/189/57 (84) dated 29th August, 1957, notifying that I. Lakshmikant Mahadeo Chakradeo, contesting a Parliamentary Seat from the Shahdol Parliamentary Constituency, have incurred disqualification on the following

#### *Grounds*

1. The account of expenses was lodged with the Returning Officer on the 25th of April, 1957 which was one day late.
2. Expenditure incurred for election from the Assembly Constituency has been included in the return of the expenses for the Parliamentary Constituency, and
3. Some vouchers have not been enclosed with the account.

Please excuse me for not being able to send this letter earlier as I was on an extensive tour in connection with my business and other activities.

I beg to submit the following explanation:—

*Ground No. 1.*—The account was ready for being posted on 22nd April itself and I wanted to post it then and there. But fearing that the letter may get lost in transit if sent by ordinary post, I decided to send it by Regd. A. D. and this could be done only on the next day i.e., on 23rd. I had felt that it would do much of the journey by air and reach Shahdol on 24th April; but, unfortunately, it reached there on the 25th.

In such cases, the day on which a letter is posted by the sender is usually considered and then there is no delay on my part. If however, the day on which the letter reached Shahdol is taken into account, admittedly, there has been a delay but of just one day. However, this delay is very slight and has been caused quite inadvertently and hence I request that the said delay be condoned.

*Ground No. 2.*—The necessity for submitting the account of Election expenses arises only because a limit has been placed on the amount any contestant can spend for his Election. Therefore, if the account submitted by any candidate does not exceed the limit, there should be no need to scrutinise the items except to find out if there is any underhand dealing. In order to err on the safer side I have included in my account all the expenses I incurred. If my expenses do not exceed the limit even after my including the expenses incurred on the Assembly Seat, how can that be a ground for disqualifying me? If however, my including the expenses of the Assembly seat in my account amounts to a technical flaw, I request you to cancel those items and ignore them and then arrive at the total. The breach of rules on my part is of a trivial nature and hence I request you to condone the same.

*Ground No. 3.*—I have made it quite clear in my covering letter dated 22nd April 1957, why I had not sent some of the vouchers, with the bundle that was sent. I do not think much importance attached itself to the vouchers unless it is suspected that there is any underhand dealing. I wanted those vouchers which I had withheld for some litigation here and for disposing of the Station Wagon and the amplifier unit. I wonder why my not sending those vouchers is considered any flaw. With all this explanation, if there is any flaw in my following the rules to the letter, I beg to be excused for the slight breach and I request that it be condoned. I enclose the bunch of those vouchers also and request you to scrutinise them and then return them to me for the purposes mentioned above.

I believe I have quite frankly and convincingly explained above how I have not committed any serious breach of rules. I request you therefore to withdraw the **DISQUALIFICATION** before the 29th October so that I should not be debarred from contesting elections in future on any ground.

Thanking you in anticipation and hoping to receive a favourable reply in the near future,

I remain  
Yours faithfully,

(Sd.) L. M. CHAKRADEO.

Enclosures Vouchers Nos. 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 31, 41, 42  
EXHIBIT "D". Copy of letter from the Election Commission to the Petitioner dated 17th April 1958.

No. MP-P/189/57/4230.

**ELECTION COMMISSION, INDIA**

1 Aurangzeb Road,

New Delhi—2, 17th April 1958

From: the Secretary, Election Commission, India.

To, Shree Chakradeo Lakshmikanth Mahadeo, 299 D, Radhakrish Baug, Charni Road, Bombay—4.

SUBJECT:— *Account of Election Expenses.*

Sir,

I am directed to refer to your representation dated the 18th October 1957 on the subject cited and to state that it has been reported by the Returning Officer that you have still not filed complete vouchers for items of expenditure. Out of 94 vouchers only 14 vouchers have been filed by you with the Representation.

I am therefore, to request you to file the remaining vouchers with the Returning Officer concerned. Your request for the removal of the Disqualification will be considered thereafter.

Yours faithfully,  
(Sd.) A. S. NADKARNI, Under Secy.

EXHIBIT "E" Collectively

Copy of letter from the Petitioner to the Election Commission, dated 30th November 1958

AND

Copy of letter from the Petitioner to the Returning Officer, Shahdol dated 30th November 1958.

The Election Commissioner,  
1, Aurangzeb Road,  
New Delhi-2.

Dear Sir,

Re: Account of Election Expenses

I am in due receipt of your letter No. MP-P/189/57/4230, dated 17th April 1958. Kindly excuse me for the delay in replying the same.

At the outset I have to draw your kind attention pointedly to the fact that your statement therein "Out of 84 vouchers only 14 vouchers have been filed by you with the Representation" is not at all correct: the facts are given below:—

1. I had in my possession on 22nd April 1957

"A". 85 vouchers for the expenses made through my own hands; and

"B". 18 vouchers for the expenses incurred by my assistant Mr. Chavan.

103 vouchers in total.

2 I wanted 19 vouchers out of the bunch of 85 vouchers "A" for my own use for some purpose. I hence kept them with myself and sent the remaining 66 vouchers of that bunch and all the vouchers out of the bunch "B" i.e. in all 84 vouchers to the Returning Officer, Shahdol, Parliamentary Constituency and Collector of Shahdol, Shahdol; along with the detailed expenses under cover of my registered A.D. Letter, dated 22nd April 1957, in which I had explained the reason why I had retained the 19 vouchers; at the same time expressing my willingness to send the same to him in case he needed them.

3 B.—A copy of that letter is sent herewith for ready reference.

3 On my getting your Registered A.D. letter No. MP/189/57/5729, dated 16/18 September 1957 and in order to meet your objection 'b' viz. 'Some vouchers have not been enclosed with the Account' I sent to you direct 14 vouchers out of the 19 which I had retained with myself originally when I sent the 84 vouchers to the RETURNING OFFICER.

4 Thus out of (A) 85 plus out of (B) 13 equal to 103 vouchers 84 were sent to the R.O., Shahdol and 14 to yourself, New Delhi, leaving a balance of only 5 vouchers with me which also I wanted to send to you at that time itself but could not because they were with my pleader. These FIVE ALSO ARE BEING SENT TO YOU HEREWITH.

Thus now, ALL the 103 vouchers that I had, have been sent between yourself and the R.O., Shahdol.

Having thus fully complied with your letter under reply, namely that of 17th April 1958, may I request you to remove the disqualification and declare me eligible to contest for any seat in any election in future.

Thanking you for an early decision in the matter

I beg to remain,  
Your most obedient servant,  
(Sd.) L. M. CHAKRADEO.

Enclosures:—

1. Set of five vouchers.
2. Copy of letter dated 22nd April 1957 to the R.O., Shahdol giving cover to the 84 vouchers.

Copy with compliments to the Returning Officer, Shahdol.

The Returning Officer, Shahdol Parliamentary Constituency,  
and

Collector of Shahdol, V.P., Shahdol.

Dear Sir,

I beg to refer to the letter No. MP-P/189/57/4230, dated 17th April 1958, received by me from the Secretary, Election Commission, New Delhi. You must have received a copy of that letter directly from the Secretary, but in case you have not, the accompanying 'true copy' will be useful to you as a ready reference.

From the correspondence that may have passed between your good-self and the Secretary prior to that date, the latter seems to have formed the impression that I have filed with you only 14 vouchers out of 84. Surely, you could not have written to him to this effect when as a matter of fact I sent to you under cover of my letter of 22nd April 1957 two bunches of vouchers the one containing 85 minus 19 i.e. 66 vouchers and the other containing all the 18 vouchers.

TOTAL 84 vouchers.

Obviously there seems to have been some mistake on the part of the Secretary in understanding whatever you may have written to him. But unfortunately,

it has created a very unfortunate misunderstanding and the result is that my 'disqualification' still stands unremoved.

I have written to the Election Commissioner just today a letter in reply to his letter of 17th April 1958 and have explained to him the actual state of facts, namely that in all I had

103 and not 84 vouchers and that out of these,

84 were sent to you on 22nd April 1957

14 to him i.e. to the Election Commission on 18th October 1957.

Thus when the Secretary wrote to me his letter, dated 17th April 1958 I had already sent between you two 98 vouchers and NOT 'ONLY 14' as per the impression carried by the Secretary.

The remaining 5 still left with me have also been sent to the Secretary under cover of my today's letter to him. **THUS ALL THE 103 VOUCHERS** have now been sent away to you and the Secretary together.

It may be that there have been left some deficiencies in my accounts but they cannot but be of a trivial nature and hence I hereby very earnestly request you to write to the Election Commissioner **RECOMMENDING THAT THE DISQUALIFICATION IMPOSED ON ME BE REMOVED.**

Yours faithfully,

(Sd.) L. M. CHAKRADEO.

P.S.—A reply per RETURN will highly oblige.

Enclosures:—

1. Copy of letter, dated 17th April 1958 from the Secretary.
2. Copy of my reply, dated 30th November 1958 from me to the Secretary.
3. Copy of my letter, dated 22nd April 1957 from me to you.

**EXHIBIT "F".—***Copy of the letter from the Returning Officer, Shahdol to the Petitioner dated 8th December 1958.*

From,

The Collector cum Returning Officer, SHAHDOL, M.P.

To

Shree Lakshmikant Mahadeo Chakradeo 318 Charni Road, Bombay 4.

No. 682/F/59/Elec./58 dated Shahdol the 8th Dec. 1958

Reference:—Your letter dated 30th November 1958.

Please refer to your letter quoted under reference. Your presumption of sending 98 vouchers to this office is correct. You have stated in your above letter that you have sent five vouchers to the Secretary, Election Commission, India New Delhi, which have not been received by this office. Thus you filed 103 vouchers in all. The fact has been brought to the notice of the Commission that 98 vouchers have been received in this office. At the time of the scrutiny of your Return of Election Expenses it was noticed that 84 vouchers excluding those which have been filed by you with the return are needed in support of the expenses incurred by you during the election period. Out of these 84 vouchers you sent 14 vouchers with your representation dated 18th Oct. 1957. Even if it is true that you have filed five vouchers more to the Secretary Election Commission, 65 vouchers more pertaining to the payments of petrol, other lubricants, pay to drivers etc. are required.

As per rule 131 (3) of the Representation of the People (Conduct of Election and Election Petitions) Rules 58, all vouchers shall be lodged with the account of Election expenses and therefore, you are requested to file other vouchers also.

Signature illegible for Returning Officer  
Assistant Collector  
Shahdol, M. P.

EXHIBIT "G".—Copy of letter from the Petitioner to the Returning Officer, Shahdol, dated 10th December 1958.

318 Charni Road, Bombay 4, 10th Dec. 1958.

The Collector cum Returning Officer

SHAHDOL, M.P.

Dear Sir,

Re. No. 682/F.59/Elec/58, dated 8th December 1958.

I feel highly indebted to you for your above letter. I am happy that you agree that I have already filed with you 98 vouchers and with the Election Commissioner 5 vouchers: in all 103 and that you have accordingly brought it to the notice of the election Commission and pointed out to them that their impression that only 14 vouchers are filed is not correct.

It is a strange coincidence that even after my sending to you 84 vouchers along with my original letter dated 22/4/57 giving cover to the Return of Election Expenses, 84 vouchers were still needed by you to make the list complete having subsequently sent (fourteen) 14 with my letter in Oct. 57 and (five) 5 recently to the Election Commission YOU NOW SAY that I have yet to file 65 vouchers. This same figure of 84 occurring in both cases had made me feel that everything was smooth and that my disqualification would be removed without any more trouble, after the mystery of the figure 84 was explained away by me in my last letter.

I shall try my best to secure the vouchers for the remaining items viz. 65 as you say, but I am extremely doubtful if I can secure any except just a few ones after such lapse of time. Whatever the rule 131 (3) may be in letter, the SPIRIT of the rule cannot be anything more than to ensure that there has been no foul play or any underhand dealing. The further purpose behind the rule must be to see that the limit of expense imposed is not exceeded.

As I have explained to you already in my previous correspondence I HAVE INCLUDED ALL THE ITEMS OF EXPENSE INCURRED by me EVEN IF THEY DID NOT COME UNDER THE CATEGORY OF ELECTION EXPENSES for the PARLIAMENTARY SEAT. The voucher will be needed to show that the expense shown under any item gives the correct figure and that it is not any more in actual reality. I believe I have proved my credentials about complete honesty in giving the expense. In any case, my total expense even after considering all the items including those not concerned with the Parliamentary Seat, is just half of the limit prescribed by the rules.

Under these circumstances I request you to condone my technical error in not being able to produce the 65 vouchers you want and to recommend to the Election Commission to remove my DISQUALIFICATION and THAT TOO, VERY URGENTLY.

I may inform you that I wish to contest for the bye-election to be held in the near future for the Nagpur-Umer Parliamentary Seat from the Bombay State and probably the nomination papers will have to be filed by the end of this month at the latest.

I request you therefore not to stand on strict routine formality as required by the LETTER OF THE LAW but to take into consideration the SPIRIT UNDERLYING it and REMOVE MY DISQUALIFICATION WITHOUT ANY MORE LOSS OF TIME. I am sure the law must have given you some discretion in such matters and I appeal to you to use the same and to see that my disqualification is removed in the next few days.

Hoping to receive YOUR REPLY IN THE AFFIRMATIVE in the near future and thanking you in anticipation.

I remain,

Yours faithfully,

(Sd.) L. M. CHAKRADEO.

## EXHIBIT "H" (Collectively)

Copy of letter from the petitioner to the Election Commission, New Delhi and copy of letter from the petitioner to the Returning Officer, Shahdol both dated 14th December 1958.

318, Charni Road, Bombay-4, the 14th December 1958

The Election Commissioner, New Delhi-2.

Dear Sir,

Re: Account of my Election Expenses

Further to my letter to you dated 30th November 1958 I beg to invite your pointed attention to the fact that

I AM CONTESTING THE BYE-ELECTION TO THE PARLIAMENTARY SEAT FROM NAGPUR-UMRER, THE LAST DATE FOR NOMINATION BEING 20TH INSTANT.

I hope you will be pleased to cancel my disqualification ON MERITS as per my request in my last letter and inform the RETURNING OFFICER for the Nagpur-Umrer Parliamentary Seat well before 20th instant PREFERABLY EVEN BY WIRE.

To be doubly sure, I have tried my very utmost to procure the remaining vouchers and have succeeded in getting five which I am enclosing.

On the 30th November I had also written to the Returning Officer, Shahdol and he has replied that even after my having sent the 103 vouchers all told between you and himself, vouchers are required by him for 65 ITEMS. The 5 vouchers now sent to you cover a large number of these 65. The number of unvouched items drops down to 32; FURTHER, I have re-written the entire RETURN OF ELECTION EXPENSES, with the same items serially numbered at the same time classifying the same under different heads. Kindly refer to the enclosed copy of my letter to the Returning Officer, Shahdol of today's date in which the whole thing is fully explained.

Eventually, the unvouched items come to only 5.85 per cent. of the money-value of the entire amount spent by me after deducting the items which do not appertain to the Parliamentary election. I am sure you will condone this much and cancel my disqualification and inform the NAGPUR-UMRER Returning Officer about it AT ONCE, and well before the 20th instant.

Thanking you,

Yours faithfully,  
(Sd.) L. M. CHAKRADEO.

Enclosures:—

1. 5 more vouchers.
2. Re-written and classified Account of Expenses.
3. Copy of letter of today's date to the R.O., Shahdol.

CC—To Mr. Ramphal Bansal, my advocate.

318, Charni Road, Bombay-4, the 14th December 1958

The Collector-cum-Returning Officer,  
Shahdol, M.P.

Dear Sir,

Re: Return of Election Expenses.

Your letter No. 682/F-59/Elec/58, dated 8th December 1958.

After writing to you my letter dated 10th December 1958 I thought it best to hunt out my Election file and other records to see if any vouchers could be found. Fortunately, I could get the following vouchers:—

1. The one for Rs. 45 paid to Mr. Yadav.
2. The one for the payment to the tractor-hire.



3. The one giving the full details of the payments made to driver Ismail and the 'full payment' receipt signed on his behalf, when the final payment was made.

The other driver Mr. Aga was then called by me and a receipt was taken from him for the amounts paid to him.

Similarly, Mr. Chavan who is serving in my Company was called and his receipt for Rs. 35 paid to him on 15th March 1957 was secured.

Thus, now, I have vouchers for the payment made to both the drivers and other worker taken by me from Bombay.

These vouchers are being sent today along with the papers mentioned below to the Election Commissioner, NEW DELHI to whom the previous five vouchers were sent and BECAUSE he it is that is to cancel my disqualification.

Then, I have re-typed ALL THE RETURN OF EXPENSES, item by item but at the same time classifying them under different heads, namely—

- (a) Items unconnected with the Parliamentary Election;
- (b) Items for which vouchers are not expected by the rules;
- (c) Items for which vouchers have been submitted including those covered by the vouchers now available; and lastly
- (d) Items for which vouchers are not available.

THIS NUMBER NOW COMES DOWN TO 32 ITEMS ONLY. These items in their turn have been classified on the last page under four heads, viz.,

- (e) Items referring to amounts paid to the Bharateeya Jansangha OFFICE, Satna, on whose ticket I was contesting the seat;
- (f) Items referring to amounts paid to the B.J.S. WORKERS at places other than SATNA;
- (g) Items referring to purchase of Petrol;
- (h) Items referring to purchase of sundry things.

If you agree to my request in my previous letter and accept to cancel my disqualification on MERITS and to recommend to that effect to the Election Commissioner, well and good. But if you are not inclined to do so, I assure you that I will be able to get the necessary vouchers for the amounts paid to the B.J.S. Office at SATNA, during the Election-time, if I am given time. These are TEN items. If that is done, the unvouched items come down to 22, but the money value of those TEN items is rupees 2,708 and the money value of the 22 items finally remaining unvouched is only Rs. 737 as against the total amount of Rs. 12,600 spent by me on the election, after deducting the items unconnected with the Parliamentary Election. This is only 5.85 per cent. of the total and can certainly be condoned, if you please.

Having thus fully explained the items and vouched them, I request you to recommend to the Election Commission, to cancel my disqualification and allow me to contest the Parliamentary bye-election from the Nagpur-Umrer Constituency.

The last day for filing in the Nomination Paper being 20th instant I REQUEST YOU TO GO THROUGH THE MATTER QUICKLY AND WIRE TO THE ELECTION COMMISSION YOUR RECOMMENDATION THAT THE DISQUALIFICATION SHOULD BE CANCELLED.

With all the sincerity and earnestness at my command.

I am yours faithfully,

(Sd.) L. M. CHAKRADEO.

Enclosures:—

6 pages of classified account sheets.

N.B.—A separate set of the same as also five vouchers referred to in the first para. above, have been sent to the Election Commission and will be in their hands even before he gets any advise from you.

C.C. to the Election Commissioner, New Delhi.

C.C. to my advocate Mr. Ramphal Bansal who also has been requested to see the Election Commissioner.

[No. 82/4/59/5254.]

By order,

.. DIN DAYAL, Under Secy.

**MINISTRY OF LAW***New Delhi, the 23rd March 1959*

**S.O. 703.**—In exercise of the powers conferred by clause (1) of article 299 of the Constitution, the President hereby directs that agreements relating to the safe custody of cycles in the cycle shed in the compound of the office of the Accounts Officer, Telephone Revenue (U.P.), Lucknow, shall be executed on his behalf by the Accounts Officer, Telephone Revenue (U.P.), Lucknow.

[No. F. 44(11)/58-J.]

P. K. BOSE, Dy. Secy.

**CABINET SECRETARIAT****(Estt. Section)***New Delhi, the 26th March 1959*

**S.O. 704.**—In exercise of the powers conferred by sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following amendments in the Schedule to the notification of the Government of India in the Cabinet Secretariat No. S.R.O. 633, dated the 28th February, 1957, namely:—

In the said Schedule:—

- (1) in Part I—General Central Service, Class II, under the heading “Central Statistical Organisation”, for the existing entries in columns 1 to 4 the following entries shall respectively be substituted, namely:—

1	2	3	4
“Senior Investigator; Senior Investigator (Hindi) Librarian,	Director	Director	All
		Joint Director	(i) to (iii);

- (2) in Part II—General Central Service, Class III, under the heading “Central Statistical Organisation”, for the existing entries, in columns 1 to 5, the following entries shall respectively be substituted, namely:—

1	2	3	4	5
“Senior Artist	Director	Director Joint Director	All (i) to (iii)	Joint Secretary Director
All other posts.	Joint Director	Joint Director	All	Director”.

RAJA RAM, Under Secy.

**MINISTRY OF HOME AFFAIRS***New Delhi, the 20th March 1959*

**S.O. 705.**—In exercise of the powers conferred by section 3 of the Foreigners Act, 1946 (31 of 1946), the Central Government hereby makes the following further amendment in the Foreigners (Protected Areas) Order, 1958 namely:—

In sub-paragraph (3) of paragraph 1 of the said Order, for the words—

“except the indigenous inhabitants of the Tibet region of China and subjects of Bhutan and subjects of Sikkim”

the following words shall be substituted, namely:—

“except the indigenous inhabitants of the Tibet region of China and subjects of Bhutan, subjects of Sikkim and nationals of Nepal.”

[No. 6/8/59-F. 1.]

FATEH SINGH, Jt Secy.

## MINISTRY OF FINANCE

(Department of Expenditure)

*New Delhi, the 19th March 1959*

**S.O. 706.**—In exercise of the powers conferred by the proviso to article 309, and clause (5) of article 148, of the Constitution, the President, after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, hereby makes the following further amendments in the General Provident Fund (Central Services) Rules, namely:

In the fifth Schedule to the said Rules for paragraph 2 the following shall be substituted, namely:—

2. An advance for the grant of which special reasons are required under clause (c) of sub-rule (1) of Rule 15 may be sanctioned by—

A Ministry or Department of the Government of India.

In the case of officers who originally belonged to the Indian Medical Service, and are now serving under a State Government, a Department of the State Government.

The Governor of Assam in his capacity as Agent to the President for the administration of tribal areas.

A Chief Commissioner/Lieutenant Governor.

An authority declared by the Central Government to be the Head of a Department under clause (10) of rule 2 of the Supplementary Rules, but not including any authority declared to be the Head of a Department by a Chief Commissioner/Lieutenant-Governor.

The Managers of the Government of India Presses, Calcutta, Simla and New Delhi.

The Manager of the Forms Press, Aligarh.

The Deputy Controller, Stationery.

The Manager of the Forms Press, Calcutta.

The Manager of Publications, New Delhi.

The Controller of Patents and Designs.

The Private Secretary to the President.

Provided that where the appointing authority of the applicant is higher than the Head of Department or other authority mentioned in the above list under whose administrative control he is serving, the Head of the Department or other authority, as the case may be, shall not reject his application for an advance save with the approval—

(a) of the Comptroller and Auditor General, in the case of officers of the Indian Audit and Accounts Service, and

(b) of the appointing authority, in other cases.

Provided further that where the applicant for an advance for which special reasons are required is himself competent to sanction the advance under the aforesaid provisions, the authority competent to sanction the advance shall be—

- (i) in the case of officers of the Indian Audit & Accounts Service, the Comptroller and Auditor General;
- (ii) in other cases, the appointing authority of the applicant."

[No. F.22(27)-EV/54-GPF.]

**S.O. 707.**—In exercise of the powers conferred by proviso to article 309, and clause (5) of article 148, of the Constitution, the President, after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, hereby makes the following further amendments in the Contributory Provident Fund Rules (India), namely:—

In the Fifth Schedule to the said Rules, for paragraph 2 the following shall be substituted, namely:—

"2. advance for the grant of which special reasons are required under clause (b) or clause (c) of Rule 12 may be sanctioned by—

A ministry or a Department of the Government of India.

A Chief Commissioner/Lieutenant-Governor.

An authority declared by the Central Government to be the Head of a Department under clause (10) of rule 2 of the Supplementary Rules, but not including any authority declared to be the Head of a Department by a Chief Commissioner/Lieutenant-Governor.

The Managers of the Government of India Presses, Calcutta, Simla and New Delhi.

The Manager of the Forms Press, Aligarh.

The Deputy Controller, Stationery.

The Manager of the Forms Press, Calcutta.

The Manager of Publications, New Delhi.

The Controller of Patents and Designs.

Provided that where the appointing authority of the applicant is higher than the Head of Department or other authority mentioned in the above list under whose administrative control he is serving, the Head of Department or other authority, as the case may be, shall not reject his application for an advance save with the approval—

- (a) of the Comptroller and Auditor-General, in the case of officers of the Indian Audit and Accounts Service, and
- (b) of the appointing authority, in other cases:

Provided further that where the applicant for an advance for which special reasons are required, is himself competent to sanction the advance under the aforesaid provisions, the authority competent to sanction the advance shall be—

- (i) in the case of officers of the Indian Audit and Accounts Service, the Comptroller and Auditor-General;
- (ii) in other cases, the appointing authority of the applicant."

[No. F. 22(27)-EV/54-CPF.]

D. D. BHATIA, Dy. Secy.

(Department of Economic Affairs)

New Delhi, the 28th March 1959

S.O. 708.—Statement of the Affairs of the Reserve Bank of India, as on the 20th March, 1959.

BANKING DEPARTMENT

Liabilities	Rs.	Assets	Rs.
Capital paid up . . . . .	5,00,00,000	Notes . . . . .	14,69,54,000
Reserve Fund . . . . .	80,00,00,000	Rupee Coin . . . . .	2,01,000
National Agricultural Credit (Long-term Operations) Fund . . . . .	25,00,00,000	Subsidiary Coin . . . . .	4,75,000
National Agricultural Credit (Stabilisation) Fund . . . . .	3,00,00,000	Bills Purchased and Discounted :—	
<b>Deposits :—</b>		(a) Internal . . . . .	..
(a) Government		(b) External . . . . .	..
(1) Central Government . . . . .	51,17,41,000	(c) Government Treasury Bills . . . . .	9,05,17,000
(2) Other Governments . . . . .	36,01,02,000	Balances held abroad* . . . . .	38,75,18,000
(b) Banks . . . . .	74,22,15,000	**Loans and Advances to Governments . . . . .	20,69,35,000
(c) Others . . . . .	120,65,29,000	Other Loans and Advances† . . . . .	113,03,43,000
Bills Payable . . . . .	33,27,53,000	Investments . . . . .	259,67,90,000
Other Liabilities . . . . .	39,67,49,000	Other Assets . . . . .	12,03,56,000
<b>TOTAL .</b>	<b>468,00,89,000</b>	<b>TOTAL .</b>	<b>468,00,89,000</b>

\*Includes Cash & Short term Securities. \*\*Includes Temporary Overdrafts to State Governments.

†The item 'Other Loans and Advances' includes Rs. 10,27,38,000/- advanced to scheduled banks against usance bills under Section 17 (4) (c) of the Reserve Bank of India Act.

Dated the 25th day of March, 1959.

An Account pursuant of the Reserve Bank of India Act, 1934, for the week ended the 20th day of March 1959.

ISSUE DEPARTMENT

Liabilities	Rs.	Rs.	Assets	Rs.	Rs.
Notes held in the Banking Department . . . .	14,69,54,000		A. Gold Coin and Bullion :—		
Notes in circulation . . . .	1692,60,20,000		(a) Held in India . . . .	117,76,03,000	
Total Notes issued . . . .		1707,29,74,000	(b) Held outside India . . . .	..	
			Foreign Securities . . . .	178,00,89,000	
			TOTAL OF A. . . . .		295,76,92,000
			B. Rupee Coin . . . . .		130,16,50,000
			Government of India Rupee Securities . . . . .		1281,36,32,000
			Internal Bills of Exchange and other commercial paper . . . . .		..
TOTAL—LIABILITIES . . . .		1707,29,74,000	TOTAL—ASSETS . . . . .		1707,29,74,000

Dated the 25th day of March, 1959.

H. V. R. Iengar,  
Governor.

[No. F. 3(2)-BC/59].

A. BAKSI, Jt. Secy.

**CENTRAL BOARD OF REVENUE**

**INCOME-TAX**

*New Delhi, the 28th March 1959*

**S.O. 709.**—In exercise of the powers conferred by sub-section (4) of Section 5 of the Indian Income-tax Act, 1922 (11 of 1922), the Central Board of Revenue hereby makes the following further amendments to its notification SO 660 No. 36 Income-tax, dated the 22nd April, 1958, namely:—

In the Schedule appended to the said notification under the Sub-head "VI-Bombay South" against

(a) Poona Range II

(i) for the existing entry "1. Income-tax Wards, A, B and C of Poona having headquarters at Poona" the following entry shall be substituted, namely:—

"1. Income-tax Wards A, B and C and Wealth Tax Circle, Poona having headquarters at Poona".

(ii) the existing entry "3. All Wards of Kolaba District having headquarters at Alibag" shall be deleted and the subsequent entries shall be renumbered "3 and 4".

(b) Sholapur Range: after the existing entry "3. All Income-tax Wards of Thana District having headquarters at Thana", the following entry shall be added namely:—

"4. All Wards of Kolaba District having headquarters at Alibag".

This notification shall take effect from the 1st April 1959.

*Explanatory Note*

NOTE.—The amendments have become necessary on account of the reorganisation of the appellate ranges in the charge of the Commissioner of Income-tax, Bombay South.

(This note does not form a part of the notification but is intended to be merely clarificatory).

[No. 32 (F. No. 50/47/58-IT).]

B. V. MUNDKUR, Under Secy.

**BOMBAY CENTRAL EXCISE COLLECTORATE**

*Bombay, the 5th February 1959*

**S.O. 710.**—In the form prescribed in Appendix 'V' viz., Bulk Soap account (household and laundry), enclosed with the Collectorate Notification No. CER/233/1/56 dated the 18th February, 1956, a new column "Issued for Stamping" should be inserted after the existing column 7 as column 8 and another column for "Net weight" should also be added in the same form as column 9 and the existing columns 8, 9 and 10 of the form should be renumbered as columns 10, 11 and 12.

[No. CER/233/1(MP)59.]

T. C. SETH, Collector.

**THE MYSORE CENTRAL EXCISE COLLECTORATE, BANGALORE**

**CENTRAL EXCISES**

*Bangalore, the 9th March 1959*

**S.O. 711.**—In pursuance of Rule 5 of the Central Excise Rules, 1944, I empower Central Excise Officers of and above the rank specified in column 1 of the table below, to exercise within their respective jurisdiction, the powers of 'Collector' conferred by the provisions of the Central Excise Rules enumerated in Column 2 subject to the limitations set out in column 3 of the table.

TABLE

Rank of Officer 1	Central Excise Rules 2	Limitations 3
Superintendent	206(3)	In cases which are within their powers of adjudication.

[No. 1/59.]

D. N. KOHLI, Collector.

**MINISTRY OF COMMERCE AND INDUSTRY***New Delhi, the 23rd March 1959*

**S.O. 712.**—In the Ministry of Commerce and Industry Notification published as S.O. 261 in the Gazette of India Extraordinary Part II, Section 3, Sub-section (ii) dated the 31st January, 1959, the objections or suggestions from the public on the draft Trade and Merchandise Marks Rules, 1959, were invited by the 23rd March, 1959. The Central Government is hereby pleased to extend the time limit for the above purpose to the 15th April, 1959.

[No. F. 8(7)-T.M.P./59.]

K. RAJARAMAN, Under Secy.

*New Delhi, the 23rd March 1959*

**S.O. 713/BLIUR/18/1.**—In pursuance of rule 18 of the Registration and Licensing of Industrial Undertakings Rules, 1952, the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Commerce & Industry S.O. No. 454/RLIUN/18/1, dated the 19th February, 1959, regarding the constitution of the Sub-Committee by the Central Advisory Council of Industries, namely:—

In paragraph 1 of the said Order after entry No. 8 relating to Shri B. P. Singh Roy, the following entry shall be inserted, namely:—

“9. Shri S. R. Vasavada, General Secretary, Indian National Trade Union Congress, Gandhi Majoor Sevalaya, Bhadra, Ahmedabad.”

[No. 2(1)IA(II)(G)/59.]

**ORDERS***New Delhi, the 28th March 1959*

**S.O. 714/DCPR.**—In pursuance of clause (c) of rule 2 of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints Shri M. C. Agarwal, Assistant Director, Office of the Textile Commissioner, Bombay, as Secretary to the Development Council established by the Order of the Government of India in the Ministry of Commerce and Industry S.R.O. 2820/IDRA/6/12, dated the 31st August, 1957 for the scheduled industry engaged in the manufacture and production of textiles made of wool, including woollen yarn, hosiery, carpets and druggets, with effect from 28th March, 1959, vice Shri Dharam Dev.

[No. 4(11)IA(II)(G)/59.]

**S.O. 715/DCPR.**—In pursuance of clause (c) of rule 2 of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints Shri D. H. Vora, Assistant Director, Office of the Textile Commissioner, Bombay, as Secretary to the Development Council established by the Order of the Government of India in the Ministry of Commerce and Industry S.R.O. 2821, dated the 31st August, 1957, for the scheduled industry engaged in the manufacture and production of textiles made of artificial silk, including artificial silk yarn with effect from 28th March, 1959, vice Shri Dharam Dev.

[No. 4(11)IA(II)(G)/59.]

K. C. MADAPPA, Dy. Secy.



COFFEE CONTROL

*New Delhi, the 30th March 1959*

**S.O. 716.**—In exercise of the powers conferred by clause (v) of sub-section (2) of Section 4 of the Coffee Act, 1942 (7 of 1942) read with rule 4(1) of the Coffee Rules, 1955, the Central Government hereby notifies that Shri K. Sivasankara Menon, Director of Agriculture, Government of Kerala, has been nominated to the Coffee Board to represent that Government on the said Board in the vacancy caused by the resignation of Shri P. D. Nair, Retired Director of Agriculture.

2. His term of office will expire on the 18th September, 1961.

[No. 1(3)Plant(B)/58.]

**S.O. 717.**—In exercise of the powers conferred by clause (xi) of sub-section (2) of Section 4 of the Coffee Act, 1942 (7 of 1942) read with rule 4(1) of the Coffee Rules, 1955, the Central Government hereby notifies that Shri K. Karunakaran, President, Neiliyampathy Estate Workers' Congress, has been nominated to the Coffee Board to represent labour thereon.

2. His term of office will expire on the 18th September, 1961.

[No. 1(3)Plant(B)/58.]

A. J. KIDWAI, Dy. Secy.

ORDER

EXPORT TRADE CONTROL

*New Delhi, the 4th April 1959*

**S.O. 718.**—In exercise of the powers conferred by sections 3 and 4A of the Imports and Exports (Control) Act, 1947 (18 of 1947), as in force in India and as applied to the State of Pondicherry, the Central Government hereby makes the following further amendments in the Exports (Control) Order, 1958, namely:—

In Schedule I to the said Order—

1. Under the heading "A. ANIMALS, FOOD AND DRINK", for item 11, the following shall be substituted:—

"11. Sugar and molasses, excluding khandsari molasses."

2. Under the heading "B. RAW MATERIALS AND ARTICLES MAINLY UN-MANUFACTURED", for entry (xii) of item 6, the following shall be substituted:—

"(xii) Others excluding the following:—

- (a) Cowpee seeds,
- (b) Flower seeds,
- (c) Tamarind seeds,
- (d) Tea seeds,
- (e) Celery seeds,
- (f) Cover crop seeds other than green manure seeds,
- (g) Dhoo grass seeds,
- (h) Forest seeds including tree seeds and hedge seeds but excluding Tarwar seeds,
- (i) Vegetable seeds."

3. Under the heading "C. ARTICLES WHOLLY OR MAINLY MANUFACTURED", for entry (ix) of item 6, the following shall be substituted:—

"(ix) Others of foreign origin excluding:—

- (a) Electric control and transmission gear,
- (b) Motors,
- (c) Diesel Engines."

[No. Export(1)/AM(21).]

T. S. KUNCHITHAPATHAM, Under Secy.

# **MINISTRY OF STEEL, MINES AND FUEL**

## **(Department of Mines & Fuel)**

*New Delhi, the 20th March 1959*

**S. O. 719.**—Whereas by the notifications of the Government of India in the Department of Mines and Fuel (Ministry of Steel, Mines and Fuel), S. O. Nos. 832 dated the 6th May, 1958 and 2008 dated the 25th September, 1958, under sub-section (1) of section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government gave notice of its intention to acquire the lands in the locality specified in the schedule appended to that notification ;

And whereas the competent authority in pursuance of section 8 of the said Act has made his report to the Central Government ;

And whereas the Central Government, after considering the report, and after consulting the Government of Bihar, is satisfied that :—

(a) the lands measuring 897 Bighas described in Schedule A appended hereto ; and

(b) the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 611 Bighas described in Schedule B appended hereto

should be acquired ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 9 of the said Act, it is hereby declared that the lands measuring 897 Bighas described in the said schedule A and the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 611 Bighas described in the said Schedule B are hereby acquired.

The plans of the areas covered by this notification may be inspected in the Office of the Deputy Commissioner, Hazaribagh or in the office of the Coal Controller, 1, Council House Street, Calcutta or in the Office of the National Coal Development Corporation (Private) Ltd., (Revenue Section), Darbhanga House, Ranchi.

### **SCHEDULE 'A'**

#### **Block—I**

*Plan No. Rev/3/59*  
(Showing lands to be acquired)

*All rights*

Sl. No.	Village	Thana	Thana No.	District	Area	Remarks
1	Chordhara	Ramgarh	55	Hazaribagh	897 Bighas (Approximate) Part Or 296.53 Acres (Approximate)	
Total					897 Bighas (Approximate) Or 296.53 Acres (Approximate).	

Plots to be acquired in village Chordhara : 26, 28, 77 to 82, 93 (P), 94 to 109, 152 (Part), 157 to 163, 164 (Part), 285 (Part), 287.

#### **Boundary description**

AB line passes along the Western boundary of Plot Nos. 77, 78 and Northern boundary of Plot No. 28.

BC line passes along the boundary of Plot No. 26.

CD line passes along the boundary of Plot No. 26.

DEF line passes along the right bank of River Damodar.

FGA line passes along the boundary of Plot No. 287, through 285, 164, along 155, 156, along and through 152, along 109 along and through 93 and along 78 upto 77.

SCHEDULE 'B'

Block—2

Plan No. Rev/3/59.  
(Showing land where rights to mine, quarry, bore, dig and search for win, work and carry away minerals are to be acquired).

Mining Rights

Sl. No.	Village	Thana	Thana No.	District	Area	Remarks
1	Chordhara	Ramgarh	55	Hazaribagh	611 Bighas (Approximate) Part Or 201.98 Acres (Approximate)	611 Bighas (Approximate) Or 201.98 Acres (Approximate)

Plots to be acquired in village Chordhara : 63 (Part), 64 to 76, 83 to 92, 93 (Part), 110 to 113, 135 to 143, 144 (Part), 145 to 150, 151 (Part), 152 (Part), 153 to 156, 164 (Part), 165 to 190, 191 (Part), 192 to 194, 196 to 201, 250, 251, 258, 259, 260 (Part), 273, 274 (Part), 275 to 284, 285 (Part), 288 to 295, 303 (P), 307 to 310.

Boundary description.

AGF line is the common boundary of Block No. 1 (AR) and Block 2 (M.R.)

FH line passes along the right bank of River Damodar.

HIJ line passes through Plot No. 303 along 295, through 274 along 273, 276, 259, through 260 along 285, 251, 185, 200, 201, 196, 194, 193, 192, through 191, along 135, 141, through 144 along and through 151 and along left bank of Roharh Garh Nalla.

JA line passes along Plot No. 92, along and through 63, along 87, 86, 84, 85, 83, 72, 71, 70 69, 68, 65 and 64 upto point 'A' (commencing point) Block (A.R.)

[No. C2-20 (19)/58.]

A. S. GREWAL, Under Secy.

(Department of Iron and Steel)

New Delhi, the 21st March 1959

S.O. 720./ESS. COMM/IRON AND STEEL-15(1)&27(1)/Cor(2).—The following Notification issued by the Iron and Steel Controller under sub-clause (1) of Clause 15 and sub-clause (1) of Clause 27 of the Iron and Steel (Control) Order 1956, is hereby published for general information:—

"NOTIFICATION

In exercise of the powers conferred by sub-clause (1) of Clause 15 and sub-clause (1) of Clause 27 of the Iron and Steel (Control) Order, 1956, and, with the approval of the Central Government, the Iron and Steel Controller hereby directs that the following further correction shall be made to the Government of India, in the Ministry of Steel, Mines and Fuel, Notification No. S.O. 2249-ESS. COMM/

IRON AND STEEL-15(1) and 27(1), dated the 18th October, 1958, published in the Gazette of India, Part II, Section 3, Sub-Section (ii), dated the 1st November, 1958, namely:—

In schedule IV of the abovesaid notification, the following shall be added, after part IV of the "CONDITION FOR SALE", namely:—

*List of Registered Producers in India*

1. M/s. Hindusthan Steel Ltd., Rourkela Steel Project, Rourkela. (Main Producer).
2. M/s. Hindusthan Steel Ltd., Bhilai Steel Project, Bhilai. (Main Producer).
3. M/s. Tata Iron and Steel Co. Ltd., 23-B, Netaji Subhas Road, Calcutta. (Main Producer).
4. M/s. The India Iron & Steel Co. Ltd., 12, Mission Row, Calcutta. (Main Producer).
5. M/s. Mysore Iron & Steel Works, Bhadravati. (Main Producer).
6. M/s. Guest, Keen Williams Ltd., 41, Chowringhee Road, Calcutta.
7. M/s. Eagle Rolling Mills Ltd., C/o Tata Iron & Steel Co. Ltd., 23-B, Netaji Subhas Road, Calcutta.
8. M/s. Indian Steel & Wire Products Ltd., P.O. Indranagar, Jamshedpur, Tatanagar. (Main Producer for Wire and Wire Products only).
9. M/s. Tinsplate Co. of India Ltd., 4, Bankshall Street, Calcutta.
10. M/s. Indian Steel Rolling Mills, C/o Tata Iron & Steel Co. Ltd., 23-B, Netaji Subhas Road, Calcutta.
11. M/s. National Iron & Steel Co. Ltd., Stephen House, Calcutta.
12. M/s. Bhartia Electric Steel Co. Ltd., 4, Old Court House Street, Calcutta-1.
13. M/s. Bhartia Steel Engineering Co. (P.) Ltd., 61, Keshab Sen St., Calcutta.
14. M/s. Bombay Steel Rolling Mills Ltd., 33, Netaji Subhas Road, Calcutta.
15. M/s. Hindusthan Iron & Steel Co., 8, Rajendra Deb Row, Calcutta.
16. M/s. National Rolling & Steel Ropes Ltd., Stephen House, Calcutta.
17. M/s. Bengal Rolling Mills Ltd., 67/B, Netaji Subhas Road, Calcutta.
18. M/s. British India Rolling Mills, 23, Canal West Road, Calcutta.
19. M/s. Rama Rolling Mills, 156, Manicktolla Main Road, Calcutta.
20. M/s. Swadeshi Industries Ltd., 33, Netaji Subhas Road, Calcutta.
21. M/s. Shree Bajrang Electric Steel Co. Private Ltd., 83, Old China Bazar St., Calcutta.
22. M/s. Steel Rolling Mills of Bengal Ltd., 33, Netaji Subhas Road, Calcutta.
23. M/s. Steel Rolling Mills of Hindusthan (P.) Ltd., 135, Canning Street, Calcutta.
24. M/s. J. K. Steel Ltd., 7, Council House Street, Calcutta.
25. M/s. National Foundry & Rolling Mills Ltd., Nayabazar, Cuttack-2.
26. M/s. Singh Engineering Works Private Ltd., P.B. No. 66, Kanpur.
27. M/s. Cawnpore Rolling Mills Private Ltd., Harrisganj, Kanpur.
28. M/s. Delhi Iron & Steel Co. Private Ltd., G.T. Road, Ghaziabad.
29. M/s. Prakash Engineering Co. & Rolling Mills, Freenganj, Agra City.
30. M/s. J.K. Iron & Steel Co. Ltd., Kanpur.
31. M/s. Agarwal Iron Works & Steel Rolling Mills, Moti Lal Nehru Road, Agra.
32. M/s. Bindeswari Prasad Banwarilal Steel Rolling Mills, Ghumni Bazar, Kanpur.
33. M/s. Indian Rolling Mills, Fazalganj, Kanpur.
34. M/s. Kisaan Engineering Works Private Ltd., 19, G.T. Road, Ghaziabad.
35. M/s. Modern Industries, Sahibabad (Ghaziabad), Meerut.
36. M/s. Singh Plate Mills Private Ltd., Kanpur.
37. M/s. Central India Iron & Steel Co., 517, Silnath Camp, Indore.
38. M/s. Digvijay Industries Private Ltd., Bangrod, Dt. Ratlam.
39. M/s. Rathi Steel Rolling Mills, Katra Rathi, Egerton Road, Delhi.

40. M/s. Steel & General Mills Co. Ltd., 3, Cavalry Lines, Delhi-8.
41. M/s. Seth Munnalal Steel Rolling Mills, Loni Road, Shahdara, Delhi.
42. M/s. Batala Engineering Co. Ltd., Batala, Punjab.
43. M/s. Lauls Private Ltd., Faridabad Township, Gurgaon, Punjab.
44. M/s. Partap Steel Rolling Mills, Chheharta.
45. M/s. Aeron Steel Rolling Mills, Jullundur City.
46. M/s. Baluram Harnam Dass Steel Rolling Mills, Gobindgarh.
47. M/s. Ch. Dewan Chand Dhanpatrai Bhatia, G.T. Road, Gobindgarh.
48. M/s. Iron Factory, Gobindgarh.
49. M/s. Jindal Steel Works, Malerkotla.
50. M/s. Ludhiana Steel Rolling Mills, Millergunge, Ludhiana.
51. M/s. Malawa Ram Handa & Sons, G.T. Road, Phagwara.
52. M/s. Milkhi Ram Hargopal Dass Steel Rolling Mills, Jaitu, Nabha.
53. M/s. Paneswar Iron Rolling Mills, Gobindgarh.
54. M/s. Punjab Steel Rolling Mills, Naba Road, Gobindgarh.
55. M/s. Rama Steel Rolling Mills, Mandi Gobindgarh.
56. M/s. Saraswati Steel Rolling Mills, Jullundur City.
57. M/s. Sri Guru Nanik Steel Rolling Mills, Tanda Road, Jullundur.
58. M/s. Saraswati Steel Rolling Mills, Gobindgarh.
59. M/s. Santram Ramjidas Steel Rolling Mills, Mandi Gobindgarh.
60. M/s. Shree Maharaja Steel Mills (P.) Ltd., Kapurthala.
61. M/s. Sulekh Ram Banarsi Dass Steel Rolling Mills, Mandi Gobindgarh.
62. M/s. Vishiv Karma Steel Rolling Mills, Mandi Gobindgarh.
63. M/s. Ram Tirath Iron & Steel Rolling Mills, Mandi Gobindgarh.
64. M/s. Sakti Steel & General Mills Ltd., Ahmedgarh.
65. M/s. Steel Sales (Private) Ltd., Tanda Road, Jullundur.
66. M/s. Man Industrial Corporation Ltd., Near Loco, Jaipur.
67. M/s. Krishna Steel Industries Private Ltd., 29-30, Vaswani Mansions, 120, Dinshaw Vachha Road, Bombay-1.
68. M/s. Mukund Iron & Steel Works Ltd., Bombay-Agra Road, Kurla, Bombay-15.
69. M/s. Taj Iron & Steel Works Private Ltd., 247, Ripon Road, Byculla, Bombay.
70. M/s. Bharat Iron & Steel Industries, Bombay-Agra Road, Bhandup, Bombay-40.
71. M/s. K.T. Rolling Mills, Private Ltd., Broach St., Carnac Bunder, Bombay-9.
72. M/s. National Steel Works Ltd., Warden House (1st floor), Sir, Firoze-shah Mehta Road, Fort, Bombay.
73. M/s. Punjab Steel Rolling Mills, P.O. Chemical Industries, Baroda.
74. M/s. Shri Rama Machinery Corporation (P) Ltd., Catholic Centre, 5/6, Armenian Street, Madras-1.

A. S. BAM, I.C.S.,  
Iron and Steel Controller."

[No. SC(A)-2(274).]

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*New Delhi, the 23rd March 1959*

**S.O. 721.—/ESS. COMM/IRON AND STEEL-2(c)/AM(39).**—In exercise of the powers conferred by sub-clause (c) of clause 2 of the Iron and Steel (Control) Order, 1958, the Central Government hereby directs that the following further

amendment shall be made to the notification of the Government of India, in the Ministry of Steel, Mines and Fuel, No. S.R.O. 2041/ESS-COMM/IRON AND STEEL-2(c), dated the 11th June, 1957, as amended from time to time, namely:—

In the Schedule annexed to the said notification, in column 2 thereof, against 'HIMACHAL PRADESH', for the existing entry No. 2, the following shall be substituted, namely:—

"2. The Director of Agriculture and the District Agricultural Officers, Administration of Himachal Pradesh.

[No. SC(A)-1(15)/59.]

J. S. BAIJAL, Under Secy.

## MINISTRY OF FOOD AND AGRICULTURE

(Department of Agriculture)

(Indian Council of Agricultural Research)

*New Delhi, the 18th March 1959*

**S.O. 722.**—In pursuance of the provisions of clause (f) of Section 4 of the Indian Coconut Committee Act, 1944 the Government of India have been pleased to appoint Shri K. Sachidanandam, Deputy Financial Adviser, Ministry of Food and Agriculture (Department of Agriculture) as a member of the Indian Central Coconut Committee for a period of three years with effect from 1st April, 1959.

[No. 8-1/59-Com.I.]

**S.O. 723.**—In pursuance of the provisions of clause (f) of Section 4 of the Indian Coconut Committee Act, 1944, the Government of India have been pleased to appoint the Agricultural Commissioner with the Government of India and the Additional Agricultural Commissioner with the Government of India, as members of the Indian Central Coconut Committee for a further period of 3 years with effect from 1st April, 1959.

[No. 8-1/59-Com.I.]

**S.O. 724.**—In pursuance of the provisions of clause (e) of Section 4 of the Indian Coconut Committee Act, 1944, the Travancore Chamber of Commerce have re-nominated Shri V. J. Joseph of M/S. Pothen Joseph and Sons Ltd; Alleppey, as a member of the Indian Central Coconut Committee for a further period of 3 years with effect from 1st April, 1959.

[No. 8-2/59-Com.I.]

*New Delhi, the 19th March 1959*

**S.O. 725.**—In pursuance of the provisions of clause (c) of Section 4 of the Indian Coconut Committee Act, 1944, the Bombay Chamber of Commerce, Bombay have re-nominated Shri A. B. Argo of Hindustan Lever Ltd., Ballard Estate, Bombay as a member of the Indian Central Coconut Committee for a further period of three years with effect from 1st April, 1959.

[No. 8-3/59-Com.I.]

AJUDHIA PRASADA, Under Secy.

## MINISTRY OF WORKS, HOUSING AND SUPPLY

*New Delhi, the 23rd March 1959*

**S.O. 726.**—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958), the Central Government hereby makes the following amendment in the notification to the Government of India in the Ministry of Works, Housing and Supply No. S.O. 307 dated the 28th January, 1959, namely:—

In the Table below the said notification, for the entries in column 2 against Serial No. 38, the following shall be substituted, namely:—

"Premises belonging to the Delhi Development Authority whether such premises are in the possession of or leased out by the said Authority

and also such other premises belonging to, or taken on lease or requisitioned by, or on behalf of, the Central Government as are controlled or managed by the said Authority."

[No. 14/6/58-Acc ]

B. D. KUMAR, Dy. Secy.

### MINISTRY OF IRRIGATION & POWER

*New Delhi, the 20th March 1959*

**S.O. 727.**—In exercise of the powers conferred by the proviso to sub-section (4) of Section 1 of the Electricity (Supply) Act, 1948 (54 of 1948) and in partial modification of Notification No. EL-III-301(7), dated the 31st March, 1958, the Central Government hereby further extends the period referred to in the said Notification upto and including the 31st day of March, 1960, in the case of all the Union territories, except Delhi.

[No. EL-III-301(7).]

G. D. KSHETRAPAL, Jt. Secy.

### MINISTRY OF REHABILITATION

*New Delhi, the 18th March 1959*

**S. O. 728.**—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the State of Madhya Pradesh for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires, the evacuee properties specified in the Schedule hereto annexed.

#### SCHEDULE

Serial Number	Particulars of the evacuee Property.	Name of the town and locality in which the property is situated.	Name of evacuee
<b>URBAN</b>			
1	House	Zari Fatika Lashkar	Abdul Rehman son of Noor Mohammad.
2	House	Sheikh Ka Bagia, Lashkar	Shrimati Anwari wife of Azim Bux.
3	House	Bala Bai Ka Bazar, Lashkar	Shrimati Allah Rakha wife of Amir Khan.
4	House	Jewaji Ganj, Lashkar	Amir Khan son of Mohammad Khan.
5	House	Bapu Dandi Ki Goth, Lashkar	Ahmed Khan son of Azim Khan.
6	Khandar	Khirkhi, Gwalior	Shri Amra.
7	House	Hanuman Nagar, Lashkar	Abdul Rehman and Wazir Ullah.
8	House	Kampoo Road, Lashkar	Ahmed Khan son of Akhtar.
9	House	Lakkad Khana, Lashkar	Amir Khan son of Ramzan Khan.
10	House	Mama Ka Bazar, Lashkar	Ahmed Khan son of Mohammad Khan.
11	House	Dholi Bua Ka Pul, Lashkar	Khwaj Bux son of Malid.
12	House	Tara Ganj, Lashkar	Kallu son of Perru.
13	House	Nimbalkar ki Goth, Lashkar	Karim son of Chote Khuda.
14	House	Daulat Ganj, Lashkar	Kadar Rehman son of Hammal.
15	House	Awadpura, Lashkar	Messrs. Kamruddin, Babu Khan son of Bhure Khan.
16	House	Tara Ganj, Lashkar	Kalla son of Abdulla.
17	House	Sube Ki Paiga, Lashkar	Ataullah son of Ahmed Ulla.

1	2	3	4
18 Plot	Hanuman Nagar, Lashkar	Azim Beg son of Kadar Hammal.	
19 House	Hanuman Nagar, Lashkar	Azim Bhalu Hamal.	
20 House	Faujdar Mohalla, Danaoli, Lashkar.	Abdul Sattar.	
21 House	Kampoo Bridge, Lashkar	Messrs. Jamir and Syed son of Gulam Ahmed.	
22 House	Bala Bai Ka Bazar, Lashkar	Khawaj Bux son of Khuda Bux.	
23 House	Madhoganj, Lashkar	Allah Bux son of Karim.	
24 House	Hanuman Nagar, Lashkar	Abdul Mazid son of Wazir Khan.	
25 House	Chawari Bazar, Lashkar	Kallu and Peru Bhisti.	
26 House	Hanuman Nagar, Lashkar	Kale Khan.	
27 House	Noor Ganj, Gwalior	Budhu and Nathey son of Ghose Mohammad.	
28 House	Hanuman Nagar, Lashkar	Babu son of Shamsher Khan.	
29 House	Tara Ganj, Lashkar	Budha.	
30 House	Mama Ka Bazar, Lashkar	Shrimati Bismilla Begum wife of Munna Khan.	
31 Plot	Noor Ganj, Gwalior	Banne Khan.	
32 House	Hanuman Nagar, Lashkar	Budha son of Madari.	
33 House	Hanuman Nagar, Lashkar	Chote Khan.	
34 Khandar	Danaoli, Lashkar	Manzoor Ali.	
35 House	Gosh Pura, Gwalior	Mohammad Bux son of Chote.	
36 House	Patankar Bazar, Lashkar	Mohammad Mulla Wali.	
37 House	Chutta Ki Bazaria, Lashkar.	Mohammad Khan son of Kale Khan.	
38 House	Kotwali, Santar, Morar.	Mohammad Ahmed Hussain.	
39 House	Janak Ganj, Lashkar.	Mehboob Beg.	
40 House	Gol Paharia, Lashkar.	Budruddin.	
41 Plot	Mama Ka Bazar, Lashkar.	Shrimati Mehmodi Begum wife of Mohammad Khan.	
42 House	Jagna Pura, Gwalior.	Mehtab Khan.	
43 House	Bhora Santar, Morar.	Mohammad Din, Salar Uddin, Kamruddin sons of Fakkar Uddin.	
44 Plot	Hanuman Nagar, Lashkar.	Mohammad Ahmed Khan.	
45 House	Sheikh Daud Ki Taliya, Lashkar.	Munna son of Abdul Gani.	
46 Land 14 Bigha, 3 Biswa; Khara No 263/2647	Morar.	Mian Hazi Uddin son of Serajuddin.	
47 House	Noor Ganj, Gwalior.	Mohammad Hussain.	
48 House	Tara Ganj, Lashkar.	Chand Khan.	
49 Khandar	Bhai Ka Bazar, Lashkar.	Chote Khan son of Niyaz Khan.	
50 House	Saudagar, Santar, Morar.	Chunne Khan son of Wazir Ali.	
51 Agricultural Land, 14 Bigha 3 Biswa : Khara No. 303/4-264.	Morar.	Minhajuddin and Zahuruddin.	
52 Agricultural Land	Village Thatipur, Morar.	Mohsanullah, Samatullah sons of Inayat Ullah.	
53 House	Sarak Sarai Dayam, Gwalior.	Dyam Khan.	
54 House	Zari Patka, Lashkar.	Dildar Khan.	
55 Plot	Hanuman Nagar, Lashkar.	Gafoor Ahmed.	
56 Pactor	Hanuman Nagar, Lashkar.	Shrimati Gaforan widow of Sultan.	
57 House	App Ganj, Lashkar	Shrimati Nani wife of Imam Uddin Hamid Beg.	
58 House	Tara Ganj, Lashkar.	Hussain son of Kesim.	
59 House	Tara Ganj, Lashkar.	Hulkh son of Chote.	
60 House	Khatik Mohalla, Lashkar.	Hussain Mohammad son of Noor Mohammad.	
61 House	Chwari Bazar, Lashkar.	Hasmat Ali son of Mukbal Ali.	
62 House	Ghosh Pura, Gwalior.	Hussain Khan son of Karim Khan.	
63 House	Mama Ka Bazar, Lashkar.		



1	2	3	4
64.	House .	Mama Ka Bazar, Lashkar.	Liquat Ali son of Amir.
65.	House .	Tara Ganj, Lashkar.	Ibrahim son of Hyder.
66.	House .	Bapu Dandi Ki Goth, Lashkar.	Imam Khan son of Bhadur Khan.
67.	House .	Hanuman Nagar, Lashkar.	Imamuddin son of Umar Khan.
68.	Plot .	Gosh Pura, Gwalior.	Inayat Khan.
69.	House .	Kasai Gali, Madhoganj, Lashkar.	Iman Noor son of Din Mohammad.
70.	House .	Hanuman Nagar, Lashkar.	Ibrahim son of Hyder Bux.
71.	House .	Mohalla Kalaran, Gwalior.	Ibrahim son of Man Khan.
72.	House .	Kanungo Mohalla, Gwalior.	Phool Khan.
73.	House .	Jacob Ki Parade, Lashkar.	Noor Ali son of Anwar Ali.
74.	Plot .	Kamingaran, Gwalior.	Nadar son of Sher.
75.	House .	Tara Ganj, Lashkar.	Nazir Mohammad son of Raja Khan.
76.	House .	Tara Ganj, Lashkar.	Noor Mohammad son of Kale Khan.
77.	House .	Hanuman Nagar, Lashkar.	Nabu son of Shamsheer.
78.	House .	Gol Pahariya, Lashkar.	Nazir Khan.
79.	House .	Kampoo, Lashkar.	Nanne Khan.
80.	House .	Hanuman Nagar, Lashkar.	Maula Bux son of Bhadur.
81.	House .	Gosh Pura, Gwalior.	Nazir Uddin son of Chimman.
82.	House .	Hanuman Nagar, Lashkar.	Nanne son of Babu.
83.	House .	Hanuman Nagar, Lashkar.	Nanku son of Samandin.
84.	Plot .	Jagne Pura, Gwalior.	Nasir Khan son of Nazaf Khan.
85.	House .	Hanuman Nagar, Lashkar.	Noor Mohammad.
86.	House .	Bapu Dandi Ki Goth, Lashkar.	Ramzan Khan.
87.	House .	Mama Ka Bazar, Lashkar.	Shrimati Rehmar Bai wife of Rehman Khan.
88.	House .	Hanuman Nagar, Lashkar.	Rehmat Khan.
89.	House .	Hanuman Nagar, Lashkar.	Ramzan son of Ali Bux.
90.	House .	Abadh Pura, Lashkar.	Rehmat Ullah son of Karim.
91.	House .	Daloli Lashkar.	Sheikh Noor Mohammad.
92.	House .	Col. Shaib Ka Bara, Lashkar.	Suberati.
93.	House .	Chawari Bazar, Lashkar.	Sheikh Mohammad son of Sharif.
94.	Khandar .	Mama Ka Bazar, Lashkar.	Sona <i>alias</i> Munni wife of Noor Khan, Karim Bala Khan and Rajal son of Noor Khan and his daughter.
95.	House .	Naya Bazar, Lashkar.	Shukat Ali and Manzoor Ali Babrec Ali and Kudiat Ali sons of Mehboob Ali.
96.	House .	Hanuman Nagar, Lashkar.	Sikendra Kale son of Hammid.
97.	House .	Hanuman Nagar, Kashkai.	Sher Khan.
98.	House .	Kadam Shaib Ki Goth, Lashkar.	Sheikh Abdul Gani son of Khuda Bux.
99.	House .	Kasai Gali, Madhoganj, Lashkar.	Sheikh Rasid.
100.	House .	Nimbalkai Ki Goth, Lashkar.	Shemshar Ahmed son of Babu Ahmed.
101.	House .	Bapu Dandi Ki Goth, Lashkar.	Yusaf Mohammad son of Mohammad Bux.
102.	House .	Kasai Gali, Madhoganj, Lashkar.	Sheikh Rasid son of Sheikh Chimman.
103.	House .	Noor Ganj, Gwalior.	Hussain Mohammad son of Gosh Mohammad.
104.	House .	Bai Shaib ki Parade, Lashkar.	Hussain Ghasita (Dhobi).
105.	House .	Noor Ganj, Gwalior.	Hussain Khan son of Rahim Khan.
106.	House .	Talc Ki Bazaria, Lashkar.	Hussain Beg son of Mohammad Beg.
107.	House .	Ladhari, Gwalior.	Hafiz.
108.	House .	Chutta Ki Bazaria, Lashkar.	Hafiz Rehman.
109.	House .	Hanuman Nagar, Lashkar.	Hazi Noor Mohammad.
110.	House .	Hanuman Nagar, Lashkar.	Wali Mohammad son of Chandu Khan.
111.	House .	Tara Ganj, Lashkar.	Wali Mohammad son of Sheikh Mohammad.
112.	House .	Bara Kasim, Lashkar.	Wazir.

1	2	3	4
113.	House .	Hanuman Nagar, Lashkar.	Wali Mohammad.
114.	House .	Laxmi Ganj, Lashkar.	Yakub Khan son of Abdul Rehman Khan.
115.	House .	Lala Ka Bazar, Lashkar.	Faruman Ali son of Syed Latif.
116.	House .	Donaoli, Lashkar.	Farukudin.
117.	House .	Maddi Ka Bazar, Lashkar.	Fiyaz Bi widow of Gulam Ali Khan.
118.	House .	Janak Ganj, Lashkar	Mehboob Beg son of Maksood Beg.
119.	House .	Vijli Ghar, Lashkar.	Mir Khan, Nathu Khan, Noor Khan sons of Mir Khan.

[No. F. 1(1220)/58/Comp. III/Prop.

*New Delhi, the 20th March 1959*

**S.O. 729.**—Whereas the central Government is of opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the State of Uttar Pradesh for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons;

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires, the evacuee properties specified in the Schedule hereto annexed.

Sl. No.	Particulars of the property	Name of the locality and town where property situated	Name of Evacuee
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1	2	3	4
<i>Distt. Bareilly</i>			
1.	EA7/112 .	Shahbad, Bareilly.	Zurab Begum.
2.	EA7/143 .	Shahbad, Bareilly.	Abdul Majid.
3.	EA7/114 .	Shahbad, Bareilly.	Manzoor Ahmed.
4.	EA11/59 .	Shahbad, Bareilly.	Achhi Begum.
5.	EA16/163 .	Bhoor, Bareilly.	Mohd. Bux.
6.	EB2/7 .	Rabri tola, Bareilly.	Ashgar Ali.
7.	EB2/18 .	Rabri tola, Bareilly.	Abdul Karim Khan.
8.	EB2/131 .	Rabri tola, Bareilly.	Rafiq Ullah and Kalloo.
9.	EB3/66 .	Rabri Tola, Bareilly.	Inayat Ullah.
10.	EB4/157 .	Qazi tola, Bareilly.	Musammat Kubra.
11.	EB5/130 .	Qazi tola, Bareilly.	Abdul Hamid.
12.	EB9/248 .	Kot, Bareilly.	Kallan and others.
13.	EB10/245 .	Kankar tola, Bareilly.	Nayab Begam and Habib.
14.	EB 11/61 .	Kankar tola, Bareilly.	Farooq Ahmed.
15.	EB11/189 .	Kankar tola, Bareilly.	Malloo Khan.
16.	EB13/117 .	Kankar tola, Bareilly.	Ahmed Lateef.
17.	EB13/172 .	Rohili tola, Bareilly.	Hashmat Ullah.
18.	EB14/159 .	Rohilli tola, Bareilly.	Niamat Ahmed.
19.	EB17/1777 .	Chak, Bareilly.	Ali Karar Shah.
20.	EB17/288 .	Chak, Bareilly.	Sohim.
21.	EC1/136-35 .	Soofi tola, Bareilly.	Amsad Ali S. Ali.
22.	EC1/206 .	Soofi tola, Bareilly.	Abdul Rashid.
23.	EC2/186 .	Soofi tola, Bareilly.	Shafat.
24.	EC2/65, Plot .	Soofi tola, Bareilly.	Akhtar Hussain.
25.	EC3/69 .	Soofi tola, Bareilly.	Ahmed Jan Beg.
26.	EC6/118 .	Soofi tola, Bareilly.	Maboo Sultan.
27.	EC7/83 .	Soofi tola, Bareilly.	Musammat Farooq and others.
28.	EC8/183 .	Soofi tola, Bareilly.	Mushammat Aishakhatoon.

1	2	3	4
29. EC11/15 . . . . .	Saiswani tola, Bareilly	Abdul Rehman Khan.	
30. EC12/15 . . . . .	Saiswani tola, Bareilly.	Fasi Ul Hasan.	
31. EC12/43. 44 and 50 . . . . .	Saiswani tola, Bareilly.	Dildar Shah and others.	
32. EC12/47 . . . . .	Saiswani tola, Bareilly.	Mahboob Shah.	
33. ED6/47 . . . . .	Brahmpura, Bareilly.	Abdul Rashid.	
34. ED6/9/1 . . . . .	Brahmpura, Bareilly.	Aziz.	
35. ED8/317 . . . . .	Bagh Ahd. Ali, Bareilly	Riazi Begum.	
36. ED 9/133 . . . . .	Farrashi tola, Bareilly.	Zurab Begum.	
37. ED12/117 . . . . .	Alamgir ganj, Bareilly.	Hafeez.	
38. ED21/19 1 . . . . .	Akab Kotwali, Bareilly.	Allaq Ahmed and Iftekhar Ahmad.	
39. ED12/112 . . . . .	Bengali tola, Bareilly.	Aziz Ahmed.	
40. WD12/126 . . . . .	Bengali tola, Bareilly.	Sayeed Ahmed.	
41. WD12/94 . . . . .	Bengali tola, Bareilly.	Maseet Ullah.	
42. WD13/99 . . . . .	Bengali tola, Bareilly.	Walijan Son of Alijain.	
43. WD15/212 . . . . .	Beharipur, Bareilly.	Saddiq Ali.	
44. WD15/189 . . . . .	Beharipur, Bareilly.	Akhari.	
45. WD16/140 . . . . .	Beharipur, Bareilly.	Bashir Ahmed.	
46. WD19/42 . . . . .	Beharipur, Bareilly.	Banney Khan.	
47. WD18/75 . . . . .	Beharipur, Bareilly.	Wahid.	
48. WA1/24A . . . . .	Bankhana, Bareilly.	Rahat Yar Khan.	
49. WA/3241 . . . . .	Kala Bagh, Bareilly.	Munshi Rehman.	
50. WA7/151 . . . . .	Siadpura, Bareilly.	Chottey.	
51. WA12/144-252 . . . . .	Puranmal, Bareilly.	Bannoo Daughter of Aziz.	
52. WA13/120, 121 . . . . .	Katra Manrai, Bareilly.	Hafiz Gulam Rabani.	
53. WA15/34 . . . . .	Surkha, Bareilly.	Wazir Ahmed.	
54. WA15/246 . . . . .	Surkha, Bareilly.	Aziz Ahmed.	
55. WA16/126 . . . . .	Koharapeer, Bareilly.	Musammat Zafra Begum.	
56. WA17/157 . . . . .	Koharapeer, Bareilly.	Qadir Bux and Chutt.	
57. WA17/283 . . . . .	Koharapeer, Bareilly.	Ahmed Raza Khan.	
58. WA21/Nil . . . . .	Swaley Nagar, Bareilly.	Ashrafi Khan.	
59. WB3/232 . . . . .	Hussain Bagh, Bareilly.	Musammat Chuttan.	
60. WB4/133 . . . . .	Hussain Bagh, Bareilly.	Ashiq Hussain.	
61. WB4/156 . . . . .	Hussain Bagh, Bareilly.	Rahmat Ullah.	
62. WB6/172 . . . . .	Baz Sandal Khan, Bareilly.	Jalal Uddin and others.	
63. WB9/110 . . . . .	Zakhira, Bareilly	Mohammad Zahoor.	
64. WB11/61 . . . . .	Zakhira, Bareilly.	Fazal Ahmed.	
65. WB16/116 . . . . .	Swaley Nagar, Bareilly.	Shakila Begum.	
66. WC2/6 . . . . .	Malookpur, Bareilly.	Khan Mohammad.	
67. WC3/11 . . . . .	Malookpur, Bareilly	Mohammad Mian,	
68. WC3/8 . . . . .	Malookpur, Bareilly.	Pearcy and Munna.	
69. WC4/104 . . . . .	Malookpur, Bareilly.	Bahadur.	
70. WC4/95 . . . . .	Maloopur, Bareilly	Manla Bur	
71. WC5/57 . . . . .	Malookpur, Bareilly.	Mushmmat Sharifan.	
72. WC6/148 . . . . .	Bazaria Malookpur, Bareilly.	Tassaduq Ali.	
73. WC7/5 . . . . .	Gher Sheikh Mittoo, Bareilly.	Maqbool Hussain.	
74. WC4/146 . . . . .	Kunwarpur, Bareilly.	Chuttan.	
75. WC11/108 . . . . .	Jasoli, Bareilly.	Laddan Khan.	
76. WC11/137 . . . . .	Jasoli, Bareilly.	Habib Jamila and others.	
77. WC12/17 . . . . .	Nakshbandan, Bareilly.	Munaki.	
78. WC12/85 . . . . .	Nakshbandan, Bareilly.	Mohbey Ali.	
79. WB6/217 . . . . .	Bazaria Sandal Khan, Bareilly.	Aziz Fatima.	
80. WB7/139-A . . . . .	Qilla, Bareilly.	Rehmat Hussain.	
81. WB8/26 . . . . .	Qilla, Bareilly.	Musammat Majid Fatima.	
82. House Number 51-52 . . . . .	Aonla, Aonla	Sharafat Ali.	
83. " " 86-1 . . . . .	Qilla, Aonla.	Naushey Khan.	
84. " " 158 . . . . .	Aonla, Aonla.	Rabboo.	
85. " " 1375 . . . . .	Aonla, Aonla.	Hidayat Ullah.	
86. " " 1379 . . . . .	Aonla, Aonla.	Budha.	
87. " " 586 . . . . .	Aonla, Aonla.	Saulat Ali.	
88. " " 450 . . . . .	Aonla, Aonla.	Faqir Mohammad.	
89. " " 1414 . . . . .	Aonla, Aonla.	Faqir Mohammad.	
90. " " 185 . . . . .	Aonla, Aonla.	Niaz Ahmed.	
91. " " 48 . . . . .	Aonla, Aonla.	Mehboob Ullah.	

1	2	3	4
92.	House of Akhtar	Faridpur, Faridpur.	Akhtar.
93.	House Number, 4/133	Faridpur, Faridpur.	Kaloo.
94.	" " 9/53	Faridpur, Faridpur.	Kaloo.
95.	" " WA21/Nil	Swaley Nagar, Faridpur.	Naushey Khan.

*District Saharanpur*

1.	LI/114	.	.	Mohalla, Khanalampura.	Mohammad Yunis.
2.	AI/57	.	.	" Mubarak Shah.	Gulam Mohammad and Mohammad Umar
3.	R6/9,	.	.	Munshian	Sohrab Khan
4.	S3/7	.	.	Bomanji Road.	Salam Ul-Nisa.
5.	I. 1/43, 44	.	.	" Qazi,	Mohammad Saddiq.
6.	M2/11	.	.	" Khumran Road.	Mushmmat Maryam.
7.	S3/65	.	.	" Khawaza Ahmed Sarai.	Srimati Amtul Rahim Wife of Allahdia, Hamidan, Hafizan, Vahsar.
8.	4923, 4923/1	.	.	" Mandi Kaley Kotwal.	Fatima wife of Noora.
9.	S2/178	.	.	" Jaffarnawaz.	Mohammad Mohsin.
10.	G2/22	.	.	" Jatwan.	Mohammad Ashique.
11.	C6/68B	.	.	" Shah Behlol.	Daud Ahmed, Srimati Zahir Fatima.
12.	Q1/54	.	.	" Kishanpura.	H. Noor Ahmed.
13.	M2/99	.	.	" Makdom Jahan Gangoh	Mahbob son of Noorul Hassan.
14.	M/199	.	.	" Makdom Jahan Gangoh.	Dilawar Hussain.
15.	S/4	.	.	" Makdom Jahan Gangoh.	Dilawar Hussain.
16.	L.25,26,27,29 and 30	.	.		Rahamatullah and Habib Ahmed Ahmed Kali son of Najaf.
17.	N/234 A to C.	.	.		
18.	3J/371	.	.	Manglour, Manglour.	Ziaulhaq son of Mohammad Akhtar.
19.	NW/260	.	.	Mohalla Satti, Roorkee.	Jamilul Rehman.
20.	S2/30	.	.	" Jaffarnawaz, Saharanpur.	Ali Athar and Ali Ahmed son of Viqar Hussain.
21.	K2/62	.	.	Pathanpura, Saharanpur.	Hidayat Khan.
22.	S2/178	.	.	Jaffarnawaz, Saharanpur.	Mohammad Masoon.
23.	S4/75	.	.	Shah Madar Sharanpur.	Musammat Asgri etc.

*District Sitapur*

1.	House in Mohalla Sodasi Bazar, Sitapur	.	.	Shasafat ullah, Khan and Idris Jehan Begum.
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*Distt. Hamirpur*

1.	Residential House, in Mohalla Saidware, Hamirpur	.	Mushmmat Akila.
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*Distt. Pilibhit*

1.	Property Number A-14/F46, Mohalla Khairullah Shah, Pilibhit.	.	Mehmudul Rehman.
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*Distt. Aligarh*

1.	One house and 4 shops Number D2/20, to D2/24, Mohalla Sarai Rehman, Aligarh	.	Ashraf and Asgar.
2.	House numbers L4/242, L4/243 and L4/Nil, Municipal Board Number 35, Manik Chowk, Aligarh	.	Mirza Sardar Hussain.
3.	House Number G1/142, Kanwari Ganj, Aligarh	.	Ilyas Ali.

*Distt. Ballia*

1.	House, Rasra Mohla, Jalpasthan	.	Sri Nazir Son of Wali Mohammad.
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1	2	3	4
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*Distt. Kanpur*

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|--|-------------------|
| 1. Style printing, Press (Machinery etc) housed in House Number 88/156, Chamanganj, Kanpur . . . . . | Sri NMunirul Haq. |
| 2. Kareem Flour Mill located in House Number, 94/89, Nai Sarak, Kanpur . . . . .                     | Nawab and Aslam.  |

*Distt. Rae Bareilly*

- |  |                       |
|--|-----------------------|
| 1. House Number, 440 Known as Reaz Manzil, Mohalla, Sheikhwara, Rae-Bareilly . . . . . | Sri Haider Sher Khan. |
|--|-----------------------|

*Distt. Hardoi*

- |  |   |
|--|---|
| 1. House bounded below :<br>North : House of Shafaqat, South-past,<br>East Sahan. West: House of Suberati,<br>Miran Basti, Shahabad. | Sri Lalloo Son of Budha.                          |
| 2. House in Budhbazar, North : Lane, South —<br>House of Nabi Bullah, East:—House of Ibadullah,<br>West : Road Karcha.               | Sri Ahmad ullah Son of Hassecon Budh.             |
| 3. House Number, 2/101, Sulemani, Shahbad . . . . .  | Kasim Hasam and Zaki Hasan cctra,                 |
| 4. House Number W1/243, Whit ganj, Hardoi . . . . .  | Sri Makhanua Son of Hashma t Whiteganj.           |
| 5. House Number 121, Mullan tola (site is evacuee property only) Sendila   | Sri Abdul Hafiz Son of Abdu l Rashid Mullan tola. |

[ No. F. 1(1217)-58/Comp. III/Prop.]

RAJA LAL GUPTA, Under Secy.

**(Office of the Chief Settlement Commissioner)***New Delhi, the 26th March 1959*

**S.O. 730.**—In exercise of the powers conferred by Sub-section (i) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri D. N. Kesar, as Assistant Settlement Officer, for the purpose of performing the functions assigned to such officers by or under the said Act with effect from the date he took charge of his office.

[No. 8/210/59-Admn.(R).]

*New Delhi, the 30th March 1959*

**S.O. 731.**—In exercise of the powers conferred by sub-section (i) of Section 3 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri I. B. Saxena as Assistant Settlement Officer for the purpose of performing the functions assigned to such officers by or under the said Act with effect from the date he took charge of his office.

[No. 8/137/59-Admn(R).]

**S.O. 732.**—In exercise of the powers conferred by sub-section (I) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby appoints Ch. Jhanda Singh, Assistant Settlement Commissioner and Shri M. N. Kaul, R.A.S., Sub-Divisional Officer, Rajgarh, who have

been appointed Enquiry Officers for the Rehabilitation of Non-Meo Muslims of Alwar and Bnaratpur, as *Ex-Officio* Deputy Custodians of Evacuee Property for the purpose of discharging duties imposed by or under the said Act. The headquarters of these officers will be at Alwar.

[No. 16(24) Admn(Prop)/58.]

M. L. PURI,  
Settlement Commissioner &  
*Ex-Officio* Under Secy.

## MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi 23rd March 1959

**S.O. 733.**—In exercise of the powers conferred by sub-section (1) of section 12 of the Mines Act, 1952 (35 of 1952), the Central Government hereby constitutes a Mining Board for the State of Rajasthan with the following members:—

### Chairman

The Director of Mines and Geology, Rajasthan, *ex-officio* [Nominated by the Central Government under clause (a) of section 12(1)].

### Members

- (1) The Regional Inspector of Mines, Ajmer Inspection Region, *ex-officio* [Nominated by the Central Government under clause (b) of section 12(1)].
- (2) Shri Ram Prasad Lodha, Member Legislative Assembly, Rajasthan. [Nominated by the Central Government under clause (c) of section 12(1)].
- (3) Shri Shivcharan Mathur, B.A.L.W. (Bombay), 43, Gandhi Nagar, Bhilwara. [Nominated by the Rajasthan Mining Association under clause (d) of section 12(1)].
- (4) Shri L. D. Naithani, C/O R. B. Seth Moolchand Nemchand (Private) Ltd, P.O. Mandal (Rajasthan). [Nominated by the Rajasthan Industrial and Mining Association under clause (d) of section 12(1)].
- (5) Shri D. Durgawat, Advocate, Udaipur. [Nominated by the Zawar Mines Mazdoor Sangh under clause (e)(i) of section 12(1)].
- (6) Shri Gokul Prasad, Secretary, Khan Mazdoor Congress, Bhilwara. [Nominated by the Central Government under clause (e)(ii) of section 12(1)].

[No. M1-3(7)/58.]

New Delhi, the 26th March 1959

**S.O. 734.**—In exercise of the powers conferred by sub-section (1) of section 12 of the Mines Act, 1952 (35 of 1952), the Central Government hereby constitutes a Mining Board for the State of Andhra Pradesh with the following members:

### Chairman

The Commissioner of Labour, Andhra Pradesh, *ex-officio*. [Nominated by the Central Government under clause (a) of section 12(1)].

### Members

- (1) The Regional Inspector of Mines, Nellore Inspection Region, *ex-officio* [Nominated by the Central Government under clause (b) of section 12(1)].
- (2) Shri Vinayak Rao Vidyalkar Koratkar, M.P. [Nominated by the Central Government under clause (c) of section 12(1)].
- (3) Shri S. K. Nargundkar, General Manager, Singareni Collieries Co. Ltd.; Hyderabad (Dn.)-4. [Nominated by the Singareni Collieries Co. Ltd., under clause (d) of section 12(1)].

- (4) Shri Palepu Dasaradharama Reddy Garu, Mica Business, Post Box No. 32, Gudur (Nellore Dist.) [Nominated by the Madras Mica Association, under clause (d) of section 12(1)].
- (5) Shri T. B. Vittal Rao, M.P., President, Singareni Collieries Workers' Union, Kothagudem Collieries P.O. [Nominated by the Singareni Collieries Workers' Union under clause (e) (ii) of section 12(1)].
- (6) Shri P. C. Reddy, President, Andhra Rashtra Mica Workers' Union, Gudur, (Nellore District). [Nominated by the Central Government, under clause (e) (ii) of section 12(1)].

[No. MI-3(5)/58.]

P. N. SHARMA, Under Secy.

*New Delhi, the 28th March 1959*

**S.O. 735.**—In pursuance of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby nominates Shri M. T. Shukla, C/o Textile Labour Association, Gandhi Major Sevalaya, Bhadra, Ahmedabad, as a member of the Employees' State Insurance Corporation in the place of Shri S. P. Dave and makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment No. HI-1(196)/58, dated the 15th March, 1958, constituting the Employees' State Insurance Corporation, namely:—

In the said notification, under the heading "Members", under the sub-heading "(Nominated by the Central Government under clause (g) of section 4 in consultation with organisations of employees)", for the item "(24 Shri S. P. Dave, Secretary, Textile Labour Association, Gandhi Major Sevalaya, Bhadra, Ahmedabad)", the following item shall be substituted, namely:—

"(24) Shri M. T. Shukla, C/o Textile Labour Association, Gandhi Major Sevalaya, Bhadra, Ahmedabad."

[No. F.HI-1(98)/59.]

BALWANT SINGH, Under Secy.

### ORDER

*New Delhi, the 28th March 1959*

**S.O. 736.**—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the Victory Colliery, P.O. Mansar, Dhanbad, and their workmen in respect of the matters specified in the Schedule hereto annexed:

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under Section 7A of the said Act.

### THE SCHEDULE

Whether the retrenchment by Victory Colliery of the following fifteen workmen was justified? Whether they are entitled to any relief, and if so, to what relief?

- (1) Shri Jagan Nonia
- (2) Shri Hari Nonia.
- (3) Shri Mahgu Nonia.
- (4) Shri Bineshwar Dusadh
- (5) Shri Kail Nonia.
- (6) Shri Haricharan Nonia.
- (7) Shrimati Murchhi Kamin.
- (8) Shri Dip Narain Nonia.
- (9) Shrimati Sundri Kamin.
- (10) Shrimati Samundri Kamin.
- (11) Shrimati Dhaneshwari Kamin.
- (12) Shrimati Domni Kamin.
- (13) Shri Bifan Nonia.
- (14) Shrimati Jirwa Kamin.
- (15) Shrimati Devrania Kamin.

[No. LRIL/2(102)58.]

K. D. HAJELA, Under Secy.

